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ABSTRACT

Schools must work together with agencies, groups, and individuals to eliminate the forces leading children to violence. Chapter 1, "School Safety: Working Together to Keep Schools Safe," stresses the importance of community collaboration in violence prevention. Effective prevention requires sharing information about students, consistent with Family Education Rights and Privacy Act (FERPA) guidelines. Other measures important to prevention are a visible law-enforcement presence, communication links with students, and a zero-tolerance policy. Chapter 2, "Balancing Student Safety and Students' Rights," explores relevant case law regarding student rights in such areas as substantive and procedural due process, advance notice, search and seizure, free speech, and privacy rights. Chapter 3, "The Attorney's Role in Responding to Violence: Lessons from Jonesboro, Arkansas," reviews lessons learned by business managers trained in crisis management. For school attorneys, these lessons include involvement in training, investigation, interacting with crisis personnel, review of school documents, and knowledge of the law. When a crisis occurs, attorneys must help control the premises, gather facts, implement crisis-management plans, and establish media policies. Chapter 4, "Preparing to Handle the News Media During a Crisis," investigates the importance of forming a crisis communications team and plan, with one member handling all media relations. (Contains 15 appendices, including common characteristics of recent school shooters, myths about violence, statistics, early intervention strategies, model interagency agreements, and conflict-resolution strategies. Includes a list of 22 germane publications.)(TEJ)

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Safe Schools, Safe Communities

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Richard A. Schwartz
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September 2000

About the NSBA Council of School Attorneys . . . .

Leadership in legal advocacy for public schools has been the overriding mission of the NSBA Council of School Attorneys throughout its celebrated history. Almost 3,000 members strong today, the Council was formed in 1967 to provide information and practical assistance to attorneys who represent public school districts. It is the only national advocacy organization composed exclusively of attorneys representing school boards. It offers continuing legal education, specialized publications, a forum for exchange of information, and it supports the legal advocacy efforts of the National School Boards Association. For information on membership, contact your state school boards association or the NSBA Council of School Attorneys.

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SAFE SCHOOLS, SAFE COMMUNITIES is a publication of the NSBA Council of School Attorneys. NSBA's Office of General Counsel and Office of Constituent Services provide professional and executive staff support to the Council and its varied programming for school attorneys across the United States. For more information about Council membership, publications and programs, call NSBA at 703/838-6722; write NSBA Council of School Attorneys, 1680 Duke Street, Alexandria, Virginia 22314; or visit the Council Web site at: http://www.nsba.org/cosa/.

FOREWORD

In March 1995 the NSBA Council of School Attorneys issued its first publication to assist schools lawyers and leaders to address the violence that had invaded the educational havens we envision our schools to be. Despite the relative safety of schools compared to other places in society, the occurrence of violent tragedies at schools across the nation and the persistence of other forms of school violence during the past five years compel us to continue our efforts. The Council presents *Safe Schools, Safe Communities* as part of that effort but with a different focus than the earlier book. It is now clear that if we are to be successful, schools must work together with other agencies, groups and individuals in their communities to eliminate the forces that lead children to violence. There are, of course, many legal issues that will affect these cooperative efforts, making the role of school attorney an important component of creating and maintaining safe schools.

Meant as a practical resource, *Safe Schools, Safe Communities* opens with a chapter stressing the importance of collaboration with others in the community to prevent rather than react to violence by students. The discussion focuses on sharing of information, identification of at risk children and early intervention. Of necessity, this book also includes an article exploring the legal principles that must be followed in balancing school safety with individual student rights. Information on the school attorney's role in assisting schools in preventing and responding to school violence is included in another chapter. The book closes with suggestions on how to deal with media inquiries about violent incidents at school. Numerous appendices have been compiled, including information on zero tolerance policies, a model interagency agreement, and a list of other school safety resources and organizations. While the information presented strives to be accurate, it should not be construed as legal advice. Readers should consult a competent professional when specific questions arise.

I wish to thank the school attorneys who gave their time and expertise to this project and to acknowledge the efforts of the NSBA staff members who prepared the articles for publication.

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NSBA Council of School Attorneys

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School Safety: Working Together to Keep Schools Safe

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In the summer of 1999, the Federal Bureau of Investigation pulled together over 100 educators, law enforcement officials, victim assistance advocates and mental health professionals for an in-depth discussion of school violence. The discussion was based on incidents of school violence that had taken place during the decade throughout our nation. The communities have become known to the American public through their tragedies.

- Fort Gibson, OK (1999)
- Conyers, GA (1999)
- Littleton, CO (15 deaths, 1999)
- Springfield, OR (2 deaths, 1998)
- Fayetteville, TN (1 death, 1998)
- Edinboro, PA (1 death, 1998)
- Jonesboro, AR (5 deaths, 1998)
- West Paducah, KY (3 deaths, 1997)
- Stamps, AR (1997)
- Pearl, MS (2 deaths, 1997)
- Bethel, AK (2 deaths, 1997)
- Moses Lake, WA (3 deaths, 1996)
- Redlands, CA (1 death, 1995)
- Blackville, SC (3 deaths, 1995)
- Lynnville, TN (2 deaths, 1995)
- Grayson, KY (2 deaths, 1993)

The purpose of this gathering was to learn from those tragedies. The participants sought to identify common behaviors and tried to gain insight into the motivation of the children involved. In addition, participants worked to determine steps that can be taken in the future to reduce the likelihood of such tragedies recurring in our nation's schools.

The following comments are not the official transcripts or notes from that group, nor are they legal advice. They represent a summary of information and insights gathered from these events.

The focus here is on prevention because it is the most responsible placement of resources. Consider the public health model. There are three levels of prevention and response measures — primary, secondary and tertiary. Primary prevention stops the injury before it occurs. Secondary measures reduce the injury. Tertiary measures include rehabilitation from the injury. Tertiary measures are the most expensive and least effective. Crisis management is tertiary. Responding to an incident in progress is secondary. Primary prevention manages the threat before the incident begins. As such, we need to focus on primary prevention, not crisis management, the tertiary response.

HOW CAN THIS HAPPEN?

This is the $64,000 question. As summarized by one expert:

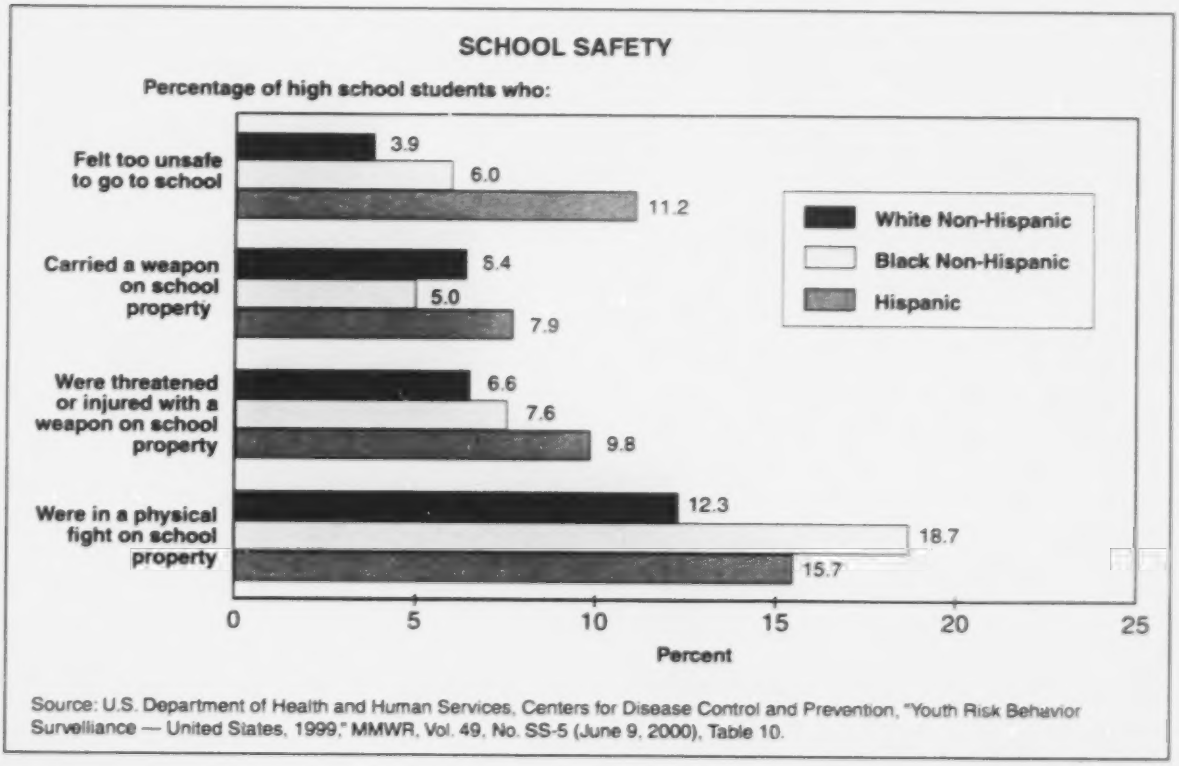
> Who are these youngsters? What is causing this violence among "good" kids from "good" homes? . . . . Many researchers, psychologists, and other men-

tal health practitioners believe that many factors impinge on the mental and emotional well being of today's youth. While it would be easier to believe that school violence is primarily an outcome of emotional and physical abuse, there are many contributing factors, beginning with early childhood attachment opportunities, parenting skills and mentoring by adults who play a significant role in a child's life, developmental traits, psychological and cultural factors, and contributions of the media. It has been found that when several of these factors are combined in a single child's life experiences, a potentially lethal situation may develop, with stress, and the biochemical consequences of that stress, creating "time bombs".

P. Edmister, JRNL. OF PHILLIPS GRADUATE INSTITUTE 19 (Summer 1999).

Sociology of Violence

Children are fundamentally mimics. They learn and develop by watching and imitating adult behavior. In some ways, this is good; we never have to teach them how to answer a telephone. Unfortunately, they mimic the bad as well as the mundane. We are, or have become, a violent society. We make violence a daily and nearly hourly event through our news and recreational media. We have surrounded our children in violence and then stand in amazement when they turn to violence themselves. Granted, it is not the violent nature of our society alone that creates violent individuals, but it is one element which, added to the mix, creates the opportunity for them to exist. (See Appendices M and N for more information on the effects of violence on children.)



Source: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, "Youth Risk Behavior Surveillance — United States, 1999," MMWR, Vol. 49, No. SS-5 (June 9, 2000), Table 10.

Bully-victim Dynamic

One theory of school shooters is that they are victims who have been repeatedly bullied. Their rage at this injustice erupts in a final fit of violence. Bullying is unfortunately prevalent in our school communities and often overlooked as an inevitable part of growing up.

Although it is the bully who commits the initial acts of aggression, in many cases it is the victim who carries out the final lethal acts — who seeks (and may become) the bigger bully. Once the roles of bully and victim become "fixed" and the victim feels trapped in that role, the stage is set for violence carried out by the victim.

The role of the bystander in the bully cycle is often overlooked, but the bystander defines and directs the performance; the bully is seeking to have the victim show discomfort in view of the bystander. Enlisting the bystander as reporters of threats is a critical component in protection. More important is for the bystander to reject the bully. To combat bullying, a change in school culture is needed — to saturate the school with messages to everyone, especially the bystander that the highest social status is afforded to the non-bully. Attention must be focused away from the bully, rather than putting him in the limelight.

Kids know which of their peers are troubled and a potential threat to their safety. Parents, teachers, administrators and schools need to create an atmosphere where students feel comfortable telling adults/authority figures when they feel that their safety is in jeopardy. (See Appendix O for more on bullying in schools.)

Psychopathy

Another theory of school shooters is that they are psychopaths. We do not know what causes psychopathy, but do know that psychopaths think and behave in abnormal ways. They hold anti-social attitudes, and their behavior results less from social forces than from an inherent sense of entitlement and an incapacity for emotional connection to the rest of humanity. For these individuals social rules have no constraining force, and the idea of a common good is merely a puzzling and inconvenient abstraction.

Psychopaths use charm, manipulation, intimidation, and violence to control others and to satisfy their own selfish needs. Lacking in conscience and in feelings for others, they cold-bloodedly take what they want and do as they please, violating social norms and expectations without the slightest guilt or regret.

Although their numbers are small — perhaps 1% of the population — psychopaths account for a large proportion of the serious crime, violence, and social distress in every society. Psychopathic depredations affect people in all races, cultures, and ethnic groups, and at all levels of income and social status. As many as 15% to 20% of prisoners are psychopaths; the disorder is common among drug dealers, spouse and child abusers, swindlers and con men, high-pressure salesmen and stock promoters, gang members, mercenaries, corrupt politicians, unethical lawyers and doctors, terrorists, cult leaders, and black marketers. Dr. Robert Hare, unpublished manuscript, (University of British Columbia. 1999).

HOW DO WE ADDRESS SCHOOL VIOLENCE?

Share Information

- **Why Sharing Is Important**

As stated by Stephen Band and Joseph Harpold, organizers of the FBI event

> First and foremost, all aspects of a community need to work together. School violence is not the sole responsibility of the school system. Law enforcement, local government, civic groups, corporate entities, schools, and parents must form a partnership to combat these violent acts. Schools must prepare for these attacks. Law enforcement must develop response plans for handling such incidents. And,

communities must work with both to prevent such tragedies from occurring.

FBI Law Enforcement Bulletin (Sept. 1999)

A wall exists between many schools and local law enforcement agencies when they knowingly, or unknowingly, don't communicate with one another. Most crimes committed within the school setting are not reported to local law enforcement.

When law enforcement and schools share information about students, it is easier to see problems and patterns emerge that suggest the need to prevent future violence. Schools must provide information to law enforcement about troubled children, activities in the schools and simple things like floor plans and schedules. Law enforcement must reciprocate by sharing similar information with school officials. It is easier to deal with the problem of violence together when information and responsibilities are not seen as the sole province of one agency or another. (See NSBA Proposed Amendment to the Family Education Rights and Privacy Act (FERPA)).

• Affect of FERPA

Whether schools and law enforcement share through formal or informal methods, schools must ensure that they comply with FERPA. Under FERPA, subject to several exceptions, schools cannot reveal education records of a student without the consent of the parents of that student, or the student himself if he is eighteen years of age or attending college. It is important to understand what FERPA will allow schools to share so that it does not become an obstacle to appropriate communications between schools and other agencies.

Educators often receive information from students in a variety of ways — conversations, reports of conversations, essay assignments, student journals, notes being passed, video assignments, and the like. Anecdotal information, such as observed threats or notes passed in class, would not constitute an "education record," that would trigger the application of FERPA. Assigned student work, such as essays or journals, however, are interpreted by the U.S. Department of Education to be "educational records," governed by the confidentiality requirements of that law. This means student work which may reflect the trouble children feel inside often remains known only to the student and the teacher. Before Michael Carneal gunned down three classmates in Kentucky, he wrote that he wanted to cut people's heads off and display them on a pole. Luke Woodham wrote of killing principals and teachers before he stabbed his mother to death and shot his girlfriend and her friend outside a Mississippi school. Before the shooting, one of the Columbine shooters was asked to write a school essay depicting himself as an inanimate object. He chose a bullet.

• FERPA Exceptions

Two exceptions to FERPA's prohibition on disclosing education records are especially important. First, education records may be disclosed within a school or school district "to other school officials, including teachers . . . whom the [school] has determined to have legitimate educational interests." 20 U.S.C. §1232g(b)(1)(A). Where information is being shared in order to undertake threat assessment and planned intervention, there is little doubt that this exception permitting disclosure among school officials would apply.

The second exception allows a disclosure to be made without consent "in connection with an emergency." 20 U.S.C. § 1232g(b)(1)(I). Such disclosure is acceptable if knowledge of the information is necessary to protect the health or safety of the student or other individuals, and may be made within the school, to school officials in other schools determined to have legitimate educational interests in the behavior of the student, and to law enforcement personnel.

> The health or safety emergency provision is a common sense acknowledgement that there may be situations when the immediate need for information to avert or diffuse certain unusual conditions or

Safe Schools.

Safe Communities

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> disruptions requires the release of information. Educators determine what constitutes an "emergency" but FERPA requires that they construe the term strictly. For example, on-campus disruptions that constitute criminal acts, particularly those involving weapons and drugs, fall within the scope of the term, as do crisis situations off campus that affect school campuses or the public's health or safety. When a health or safety emergency exists, schools may share relevant information about students involved in the emergency with appropriate parties — that is, those whose knowledge of the information is necessary to protect the health or safety of the student or other individuals.

U.S. Departments of Justice and Education, SHARING INFORMATION: A GUIDE TO THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT AND PARTICIPATION IN JUVENILE JUSTICE PROGRAMS (1997).

In addition, where a school or school district has designated a local law enforcement agency as the schools' "law enforcement unit," additional authority exists to share information between agencies. 20 U.S.C. § 1232g(a)(4)(B)(ii). Such an approach is advisable where the local law enforcement agency is prepared to reciprocate in the sharing of information. This approach requires a well-crafted agreement with the local law enforcement agency.

Create a visible law enforcement presence in the schools

There is no one perfect plan or program that can be implemented in every community to prevent violence. Prevention measures must vary according to community culture, needs, and resources. However, most communities could benefit from some general prevention procedures, policies, and programs.

One recurrent theme of prevention that received unanimous endorsement and praise was the use of local law enforcement personnel, in uniform, as full time school resource officers. This presence will not guarantee safety, but resource officers can help to prevent tragedy and to react immediately if a crisis occurs.

The visible presence of law enforcement on a school's campus also enhances the proactive nature of the school's violence prevention efforts and can positively impact its security and safety on several levels. *See* Center for the Prevention of School Violence, STARTING A SCHOOL OUTREACH PROGRAM IN YOUR COMMUNITY: AN EFFECTIVE PRACTICES OUTLINE FOR THE SCHOOL RESOURCE OFFICER APPROACH (1999). This gives students an opportunity to develop trust and to talk to law enforcement in a neutral, non-threatening atmosphere. In addition, the school resource officer can serve as a conduit between the school and the community. In many of the shootings that took place around the country, the students were talking about the pending violence not only in their schools, but also in the community. Hence, the need for a strong law enforcement/school relationship is paramount. Selection of the right officer is crucial to the success of the program. Proper training of the school resource officer is equally important.

Before securing the services of either police officers or school security officers, schools districts are advised to consult with their school attorneys. The U.S. Supreme Court has previously ruled that school districts have greater flexibility in conducting searches and seizures upon students than law enforcement officials enjoy. Specifically, school officials are required to demonstrate that they have "reasonable suspicion" to conduct a search. This standard affords greater deference to school officials than the probable cause standard upon which law enforcement officials are required to justify their searches. To the extent a search is conducted upon a student by a police officer or school security officer, a student may raise the claim that the search was not justified at its inception because the officer lacked possible cause. If sucessful the student might be able to exclude evidence of any "illegally" seized contraband

in either a school disciplinary action or in a criminal context. Therefore, prior to employing security officers or working with the police, districts would be wise to have full knowledge of the impact such decisions will have upon their ability to justify searches conducted in school.

Create communication link to receive information from students

A school must create a culture of mandatory reporting by all members of the school community, including students and parents. This is not a new task for already overworked educators. Violence, and threats of violence, have been confronted in the classroom and reported to the principal's office throughout the history of education. This culture of reporting must be broadened to include warning signs that constitute a threat of school violence. Likewise, these who are obligated to share this information must be expanded to include students, school officials and law enforcement officials.

In all but one of the school shootings to date, the shooters had told other students about their intentions. But students seldom feel comfortable or safe conveying this information to school officials or law enforcement. It is generally contrary to the school community norms to "snitch" or "rat" on another student. And sometimes when students do report, adults do not take the student seriously at the time. In light of this, an anonymous tip line or similar program might facilitate the flow of information from students to law enforcement and school officials. There are a number of anonymous reporting programs currently in use — Crime Stoppers® being the most widely implemented. A good working relationship must exist between school authorities and law enforcement to ensure that the information received through such programs is reviewed and conveyed in a timely fashion. Also, incorporating peer mentors or counselors into schools might be helpful because students could go to a peer confidante instead of an adult.

Adopt a zero-tolerance policy and mentality

Schools should establish reasonable zero-tolerance policies for students who commit violent acts, make threats of violence or bring weapons to school. Such a policy might include expulsion or suspension of students who threaten to kill or assault others. The policy should provide for immediate referral for psychological evaluation or intervention for these students when appropriate.

We, as the school community, must recognize and convey to students that making threats is a crime. When adults take threats seriously, students will realize that violence is not acceptable within the schools. Students who make a threat must be dealt with under school policies. Where appropriate, this activity should be reported to local law enforcement. School policies should be clear and distributed to all personnel, students, and their parents or guardians. Inviting input from the community and from parents regarding acceptable behavior might help reduce resistance to such policies. If the community has ownership in the policy, it is more likely to believe in the policy. (See Appendix E, Zero-Tolerance Policies, Statement of Julie Underwood before the U.S. Commission on Civil Rights).

CAN WE PREDICT VIOLENCE?

While society can minimize the risk of violence, we can rarely, if ever, predict it because of the numerous human variables involved. We can only analyze the risk. This is often referred to as threat assessment. In assessing the level of threat, we move from the general to the more specific, examining the social context, the school dynamics and the individual. The appropriate focus for threat assessment is to identify and understand risk factors, often seen in the form of

recurring behaviors, and not to try to match a student to a predetermined "profile".

General Warning Signs

Children who commit violence in schools are really a small subset of vulnerable children. We should watch for these children and put into place mechanisms to refer them for screening, support, or external mental health assistance. General warning signs or personal background indicators include:

- A history of violence
- A close family member who has committed a violent act
- A history of alcohol or drug abuse
- A precipitating event, such as a failed romance or the perception of a failure
- The availability of a weapon or the means to commit violence
- A recent attempt to commit suicide or an act of violence
- A lack of coping skills or strategies to handle personal life crises with no controls to prevent anger or positive ways to release it
- No apparent emotional support system
- A lack of involvement in extracurricular activities

(See Appendices K for U.S. Department of Education, *Early Warning Signs* and *Principles for Developing a Referral Process.*)

Descriptions of Previous Shooters

Several factors exist that may indicate that individuals have the potential to commit violence. While these indicators are by no means certain or present in every case of violence, children who exhibit these symptoms should receive additional oversight and assessment or counseling services in an effort to prevent the potential of future violent acts. These are not absolute predictors, and many children may possess one or more of these traits. However, these are cries for help that may necessitate intervention. Most of the school shooters have shared the following characteristics; they

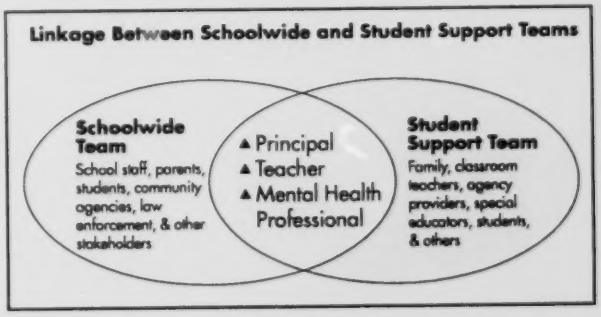
- demonstrate low self-esteem. They feel disrespected by their peers and family.
- have committed previous acts of cruelty to animals.
- have a fascination with firearms and weapons.
- are "injustice collectors," *i.e.*, they attract and accumulate injustices — ridicule, teasing, bullying — until they reach their tipping point.
- see violence as the only alternative left to them.

(See Appendix A for more information on common characteristics of some school shooters.)

Response to warning signs

- **Work Together**

We believe communities should deal with potential violent students as a subset of troubled youth. Many of our children need more support and guidance than they are currently receiving. It is impossible for families or schools to provide sufficient support and guidance alone. They must work together and in concert with the total community to assist


Linkage Between Schoolwide and Student Support Teams
Schoolwide Team
School staff, parents, students, community agencies, law enforcement, & other stakeholders
▲ Principal
▲ Teacher
▲ Mental Health Professional
Student Support Team
Family, classroom teachers, agency providers, special educators, students, & others

Source: U.S. Department of Education, *Safeguarding Our Children: An Action Guide* 5 (2000).

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children as they develop, mature, grow. The most troubling aspect of our conversations was realizing the barriers that we have placed between our institutions. These barriers increase costs, lessen efficiency and in the end harm our children. We must work together.

- **Share Information**

When law enforcement and school personnel encounter a child who may be abused or neglected, they have a state statutory duty to act. That statutory duty includes the responsibility to share information with others — child welfare, juvenile justice, schools, and law enforcement. Unfortunately, because of our overemphasis on student confidentiality, we often paralyze ourselves and do not respond similarly when we perceive a child who is at risk in other ways. This harboring of information inhibits us from seeing the whole picture, collaborating with others to provide assistance, and from possibly picking up on early warning signs. We must overcome this barrier. One way is to have a clear understanding of confidentiality laws so that we know what can be shared and under what circumstances. In many jurisdictions though, confidentiality statutes must be amended to allow for appropriate sharing of information.

Develop intervention strategies

School personnel should think of a continuum of events and possible reactions in responding to warning signs; at the same time, school personnel must use sound judgment and their instincts, when serious conditions demand immediate intervention, including assistance of police to save lives.

In non-emergency situations, a procedure such as the following may be useful to adopt:

1. Recognize warning signs.
2. Report to other school officials. The central person for receiving information will depend on the particulars of the school.
3. Gather information from teachers, students, parents, other school staff, law enforcement officials, juvenile justice system, and the student who is perceived as at risk.
4. Use team approach to assess the potential that the student may do something violent. Makeup of the team will vary, but would generally include the student's parents, teachers, counselors and /or mental health professionals, the principal and law enforcement professionals.

Qualities of Safe and Responsible Schools

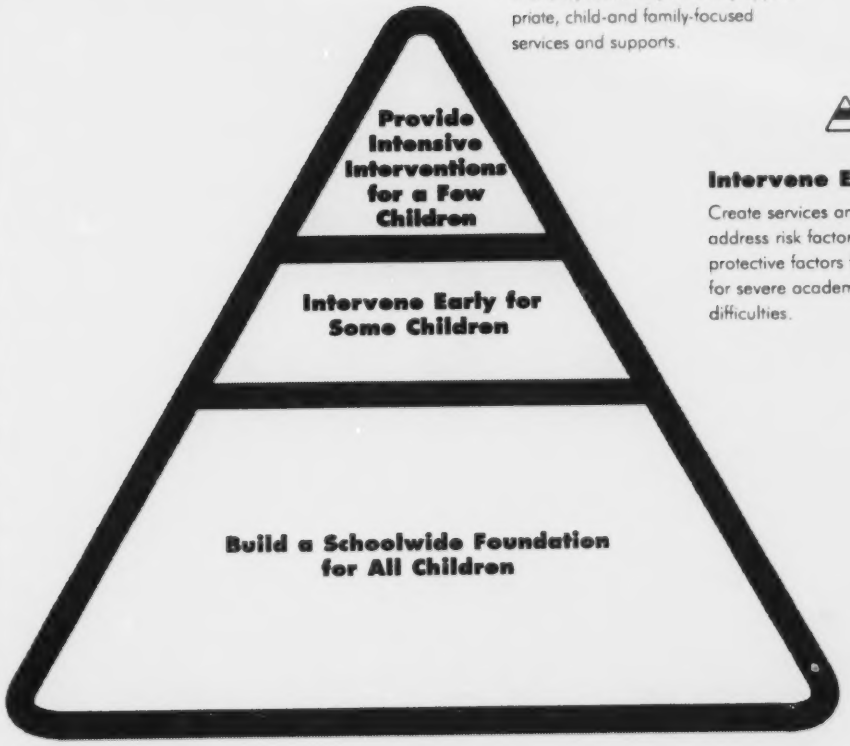
- ✔ The school has strong leadership, caring faculty, family and community involvement, including law enforcement officials and representatives of community-based organizations and student participation in the design of programs and policies.
- ✔ The physical environment of the school is safe and schoolwide policies are in place to promote and support responsible behaviors.
- ✔ Prevention and intervention programs are sustained, coordinated, and comprehensive.
- ✔ Interventions are based on careful assessment of student needs.
- ✔ Evidence-based approaches are used.
- ✔ Staff are provided with training and support to help them implement programs and approaches.
- ✔ Interventions are monitored and evaluations are conducted to ensure that the programs are meeting measurable goals and objectives.

Source: U.S. Department of Education, *Safeguarding Our Children: An Action Guide* 2 (2000).

5. Use team approach to plan an intervention. This form of intervention will vary depending on many factors, including the characteristics of the student, the perceived risk of violence, and the level of perceived violence.
6. Intervene.

It must be understood that this approach may in some circumstances have to occur extremely rapidly as an immediate priority for school and law enforcement personnel. (See Appendix G, U.S. Department of Education, *Early Intervention Strategies.*)

A Three-Level Approach to Preventing Violence


Provide Intensive Interventions for a Few Children
Intervene Early for Some Children
Build a Schoolwide Foundation for All Children

Provide Intensive Interventions
Provide coordinated, comprehensive, intensive, sustained, culturally appropriate, child-and family-focused services and supports.

Intervene Early
Create services and supports that address risk factors and build protective factors for students at risk for severe academic or behavioral difficulties.

Build a Schoolwide Foundation
Support positive discipline, academic success, and mental and emotional wellness through a caring school environment, teaching appropriate behaviors and problem solving skills, positive behavioral support and appropriate academic instruction.

Source: U.S. Department of Education, *Safeguarding Our Children: An Action Guide* 3 (2000).

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CONCLUSION

In short, this synthesis of the work done at the 1999 FBI school safety gathering* clearly reveals that there is no universal, "one size fits all," solution or program. A successful plan for assessment and intervention must be flexible, ready to adapt quickly to each situation. None of the ideas and suggestions described above alone will insulate a school from lethal acts of violence. Thoughtful consideration of adoption of many of them in your schools, however, will provide systems that may deter future acts of violence. Their careful consideration will also bring together and sensitize communities, including educators, parents, students and law enforcement personnel, to the need for principles of threat assessment and prevention to guide the design and planning of programs for our schools and the children who learn in them.

Unfortunately, we must accept the fact that horrific incidents will happen in our society, and even in our local public schools. Communities must come together to deal with this problem in a multidisciplinary approach. This phenomenon is complicated and requires our collective wisdom and actions to deal with it. Meanwhile, we must develop comprehensive plans to prevent it and alternatively to address the worst when it occurs.

Perhaps Misty Bernall, the mother of Cassie Bernall — one of the students slain in the Columbine shooting — captured it best. A few days after her daughter's death, she spoke with some friends who had just been traveling in Israel. They had attended a service to remember fallen soldiers at which they heard the following chant in Hebrew: "My death is not my own, but yours, and its significance depends on what you do with it." What we as a society do in response may give additional meaning to the too short lives of the students who have died in school shootings in our nation.

* SCHOOL SHOOTER: A THREAT ASSESSMENT PERSPECTIVE (Sept. 2000) reporting the conclusions of the FBI inquiries is available at http://www.fbi.gov/library/school/school2.pdf

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Balancing Student Safety and Students' Rights

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INTRODUCTION

"America 2000" — that was the name given to the National Education Goals announced by President George Bush in 1991, including the goal to "liberate every American school from drugs and violence so that schools encourage learning."[1] Years later, school violence has many faces, seared into our collective psyches from the covers of news magazines and from dramatic live television reports.

WELCOME TO AMERICA 2000

Despite these incidents, schools remain safe places.[2] Less than one percent of the more than 2,500 U.S. children who were murdered or committed suicide in the first half of the 1997-98 school year (July 1, 1997 – December 31, 1997) were on school property, at a school-sponsored event, or on their way to or from school or a school-sponsored event.[3] Occurrence of violent crimes[4] at schools is down since 1992-93. Students are far more likely to be the victims of such crimes away from school, than at school, or going to or from school. In 1997, 2.4% of students ages 12-18 were victims of violent crimes away from school, while only 0.8% suffered such crimes at school, or on their way to or from school.[5] For every 1,000 students ages 12-18 during 1997, there were 8 incidents of serious violent crimes suffered in school or while going to or from school, down from 12 such incidents per 1,000 students in 1993.[6]

While the number of school-associated violent deaths and other serious crimes has decreased from 1992-93 to 1997-98, the number of multiple-victim homicides on school grounds has increased.[7] Since the 1992-93 school year, there has been at least one multiple-victim school homicide each year, with the exception of 1993-94.[8]

No doubt the impact of these multiple homicides, and the media coverage of them, have resulted in the public perception that our schools are unsafe. These horrific events overwhelm and belie these statistics on relative school safety. There is nothing "relative" about school safety or school violence when it touches home. If the incidents listed above represent nothing else, they make clear that no place is immune, no place totally safe. We now all realize it *could* happen here.

How have school administrators, law enforcement officials, legislators and others responded? In a variety of ways, of course, but all intended to study and root out school violence, and to

1. U.S. Department of Education, AMERICA 2000: AN EDUCATION STRATEGY 52 (1991).
2. *Before the Senate Subcommittee on Labor, Health and Human Services, Education and Related Agencies on September 14, 1999* (statement of Richard W. Riley, U.S. Secretary of Education).
3. U.S. Department of Education and U.S. Department of Justice, 1999 ANNUAL REPORT ON SCHOOL SAFETY 2 (1999).
4. These include rape, sexual assaults, robbery, and aggravated assault.
5. 1999 ANNUAL REPORT ON SCHOOL SAFETY 3 (1999); U.S. Department of Justice, Bureau of Justice Statistics, NATIONAL CRIME VICTIMIZATION STUDY, 1992 TO 1997 (1999).
6. U.S. Department of Education, ALCOHOL, DRUGS, & VIOLENCE: A 5-YEAR REPORT CARD ON AMERICAN EDUCATION (2000).
7. 1999 ANNUAL REPORT ON SCHOOL SAFETY 3 (1999).
8. *Id.*

make our schools safer. In every state, and at the national level, there has been legislation enacted to address school violence.[9] In most cases, the legislation includes more certain and severe punishments for acts of school violence or for threats in and against schools.

Faced with any threat against school safety, school administrators have become quick to react. In the rush to ensure student safety and to enforce tough new zero tolerance policies and laws, school officials must be careful not to let their fear or their zeal overcome individual student rights. School administrators must remind themselves of the need to balance the interests of the individual against the interests of the school as a whole, and must be careful not to sacrifice student rights on the altar of school safety.

There is much that school officials can do to avoid and prevent school violence, and we constantly are learning more about how to do it better. Schools are now required to collect and analyze data on school safety.[10] Schools are now able to make important strategic choices with this information. Funding for school safety measures has become a far greater priority, and every school in America by now ought to have a school safety plan.

Safe schools in the year 2000 involve more than a hard-nosed assistant principal with a pad of detention slips and a paddle. Safe schools now may include architectural planning and design, strategic lighting, electronic video and sound monitors, motion sensors, metal detectors, armed uniformed resource officers, committee meetings, counselors, crisis plans, information sharing, referrals to law enforcement and juvenile agencies, alternative schools, early identification and intervention strategies, gang identification, student ID systems, multi-cultural/diversity training, school uniforms, behavior modification programs, re-entry programs, alternative dispute resolution, peer mediation, character education, anonymous reporting programs, closed campuses, and more.[11]

Beyond schoolyard scuffling, more violent acts and behavior affecting student safety may include aggravated assaults, robbery, sexual assaults, drugs, alcohol, weapons, explosives, gang behavior and hate crimes. Bullying or harassment may be precursors to acts of violence, and lead to violence by the victim, who may eventually retaliate. Aside from their obvious impact, these behaviors can damage the school environment in more subtle ways. They can produce feelings of fear or victimization, low morale, avoidance of certain areas or programs in a school, poor attendance, drop-outs, and a loss of self-esteem by individuals in the school community.

This article will focus on those aspects of school violence and safety programs that may impact student rights. It is essential for school attorneys and administrators to be mindful of the constitutional protections and the law affecting an individual student's rights when faced with the difficult task of assuring school safety.[12]

BASIC STUDENT RIGHTS

Students are of course entitled to basic substantive and procedural due process with regard to student discipline issues. Because students carry with them their constitutional protections when they pass through the "schoolhouse gate,"[13] any school disciplinary action must be taken only after due process guarantees have been met.

Substantive Due Process

If a school's rules are reasonably related to its interest in maintaining order and disci-

9. *E.g.*, Gun-Free Schools Act of 1994, 20 U.S.C. § 8921 (1994); U.S. Department of Education, Report on Implementation of the Gun-Free Schools Act – School Year 1997-98 (1999).

10. *E.g.*, Safe and Drug-Free Schools and Communities Act of 1994, 20 U.S.C. §§ 7101 *et seq.* (1994); National Center for Education Statistics, U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, Juvenile Offenders and Victims: 1999 National Report (1999).

11. *See* National School Boards Association, Violence in the Schools: How America's School Boards Are Safeguarding Our Children (1993). Section II describes 750 programs school districts used to combat school violence in the early 1990s.

pline, or to protecting students in a safe school environment, the rules will be upheld. Substantive due process safeguards a student against the arbitrary exercise of governmental power unrelated to a legitimate governmental interest. As long as a school's actions are reasonable, and rationally related to legitimate school purposes, the actions should be upheld.[14]

Procedural Due Process

In *Goss v. Lopez*,[15] the U.S. Supreme Court required that procedural due process be applied to school disciplinary measures. The Court held that the right to attend school is a property interest that cannot be deprived without due process of law. Exclusion of a student from school for more than a "trivial" period violates due process in the absence of appropriate notice of the charges against the student and an opportunity to respond to those charges.

The amount of process a student is "due" depends upon the potential penalty that might be imposed. When the penalty is relatively small (for example, detention, or short-term suspension less than 10 days), a relatively small amount of due process is required. If the suspension is for more than 10 days or if expulsion is considered, the extent of process to which a student is entitled will increase.

Notice

Providing advance notice to students of the types of conduct prohibited in the school setting, and of the potential discipline that might result, is a basic requirement of due process. Accordingly, a code of student conduct must be in place in every school system and must be drafted with sufficient detail to enable students and others to understand with some level of certainty what behaviors will result in what disciplinary action. (See box below.)

School disciplinary rules do not need to be as detailed as a criminal statute, however, because the potential sanctions are not as great. The language simply must afford a student adequate warning of behavior that might result in punishment.[16] Consequently, a school code of conduct should include specific policies related to student safety and violence.

BEHAVIORS TO INCLUDE IN CODE OF CONDUCT

- Alcohol and drugs
- Gang activity
- Harassment
- Bomb threats
- Possession of firearms or explosives on school property
- Possession of other weapons on school property
- Search and seizure
- Basic student conduct and discipline
- Discipline of students with special needs
- Discipline for off-campus behavior
- Discipline at school-sponsored events
- Discipline whenever a student is subject to the authority of school personnel
- Interrogations by school officials
- Interrogations by law enforcement authorities
- Creating disturbances on school grounds
- Sexual assaults
- Vandalism
- Intimidating or aggressive behavior
- Possession of dangerous instruments
- Threatening acts
- Communicating threats
- Weapon facsimiles
- Hate crimes
- Hate speech
- Zero tolerance of certain acts

12. For a complete review of this subject, See National School Boards Association, LEGAL GUIDELINES FOR CURBING SCHOOL VIOLENCE (1995).

13. Tinker v. Des Moines Independent Community School Dist., 393 U.S. 503, 89 S. Ct. 733, 21 L.Ed.2d 731 (1969).

14. *See, e.g.*, Wood v. Strickland, 420 U.S. 308, 95 S. Ct. 992, 43 L.Ed.2d 214 (1975).

15. 419 U.S. 565, 95 S. Ct. 729, 42 L.Ed.2d 725 (1975).

16. Bethel School Dist. No. 403 v. Fraser, 478 U.S. 675, 106 S. Ct. 1326, 89 L.Ed.2d 501, 30 Educ. L. Rep. 1024 (1986).

Search and Seizure

"Reasonable suspicion" is the standard governing school searches and seizures, as articulated in *New Jersey v. TLO.*[17] School officials must demonstrate that a search is justified by a "reasonable suspicion" that a student has committed a violation of school rules or of the law. The search must be reasonable at its inception and reasonable in its scope. That is, at the outset, the search must be based on reasonable grounds to believe that it will yield evidence of the violation of law or school rules. The search as conducted must be resonable in light of the age and sex of the child being searched and the seriousness of the suspected offense.

Speech

Some of the more difficult issues pertaining to school violence come not from acts of violence themselves, but from statements made by students. Statements, whether written, verbal, communicated over the Internet, or made through symbolic speech, may be interpreted as threatening, intimidating, harassing, hate speech,[18] or otherwise in violation of school rules. Or, they may be none of the above, and may be protected by the First Amendment. The issue to be decided is "whether a reasonable person would foresee that the statement would be interpreted . . . as a serious expression of intent to harm or assault."[19]

Regardless of whether speech is considered threatening, or a threat to student safety, students may be disciplined for uttering such statements if they are disruptive or in violation of school rules. Students must be put on notice that threatening statements will not be tolerated, regardless of whether they are communicated as a serious expression of intent to harm another. Such statements still may be considered inappropriate within the school disciplinary context and/or likely to be disruptive in the school environment.

ARE THESE THREATS?

- "Sometimes I feel like blowing up this school."
- "I'm going to blow up this school."
- "There is a bomb in the school, and it is about to go off."
- "There may be a bomb in the school."
- "There will be a bomb at the school on April 1."
- "There will be a bomb threat called in on April 1."
- "There will be a bomb threat at school sometime this year."

In considering whether such statements are threats, school officials must act or respond with regard to the totality of circumstances under which these statements are made.

In a very instructive federal case from California, the district court and later the Ninth Circuit Court of Appeals were asked to construe a statement made by a high school sophomore to her guidance counselor.[20] The statement could have been interpreted as an innocuous expression of frustration, or as an actual threat. The student admitted to saying, "I am so angry, I could just shoot someone." The student characterized her statements as a figure of speech, while the school counselor to whom the statement was made considered it a threat.

The district court held that the school system had violated the student's right to freedom of speech, because the statement did not rise to a sufficient level of a "'threat' required by law. . . to allow infringe-

17. 469 U.S. 325, 105 S. Ct. 733, 83 L.Ed.2d 720, 21 Educ. L. Rep. 1122 (1985).

18. *See* Brian Shaw, *Regulating Hate Speech in Public Schools*, in LEGAL GUIDELINES FOR CURBING SCHOOL VIOLENCE, (National School Boards Association, 1995).

19. United States v. Orozco-Santillan, 903 F.2d 1262, 1265 (9th Cir. 1990).

20. Lovell v. Poway Unified School Dist., 90 F.3d 367 (9th Cir. 1996), *rev'g*, 847 F. Supp. 780 (S.D. Cal. 1994), *cert. denied*, 518 U.S. 1048, 117 S. Ct. 27, 135 L.Ed.2d. 1120 (1996).

ment on her right of free speech."[21] In reversing the district court decision, the Ninth Circuit Court of Appeals ruled that threatening statements, such as the one at issue, are not entitled to First Amendment protection in any event, regardless of whether they are made in or out of the school setting. In its ruling, the Ninth Circuit noted specifically the level of school violence with which school officials must contend: "In light of the violence prevalent in schools today, school officials are justified in taking very seriously student threats against faculty or other students."[22] The court concluded with a useful test to analyze such statements: "While courts may consider the effect on the listener when determining whether a statement constitutes a true threat, the final result turns upon whether a reasonable person in these circumstances should have foreseen that his or her words would have this effect."[23]

In recent months, many followed the story of yet another threat to beleaguered Columbine High School in Littleton, Colorado. On December 15, 1999, Michael Ian Campbell, an 18 year-old from Florida, sent a message to a Columbine student on the Internet, telling her not to go to school the next day because he was "going to finish what had begun" and that he did "not want [her] blood on [his] hands."[24] School officials took the threat so seriously they shut down Columbine during the last two days of the fall semester.

Denying the seriousness of the threat, Mr. Campbell's attorney, on the other hand, was quoted as saying, "This was four and one-half or five minutes in a play world. And you can't convict an 18 year-old for a make-believe crime in a make-believe world."[25] The attorney suggested an "Internet intoxication" defense, contending that Campbell had not committed a real crime, but rather "a virtual crime in a fantasy world." The U.S. Attorney respectfully disagreed. Campbell was indicted by a federal grand jury in Denver on one count of transmitting a threat over interstate communication lines. He later plead guilty to this one felony count. Campbell was quoted as acknowledging, "I am totally to blame. This Internet intoxication is the stupidest thing I've ever heard of."[26]

Obviously threats within the school setting may be considered both a violation of criminal code and school rules. Even if the threat is not substantial, direct, or specific enough to constitute a violation of state or federal law, it may give rise to school disciplinary action if codes of student conduct are properly drafted to prohibit such behavior. Such statements are simply not entitled to First Amendment protection.

STATUTORY ISSUES

Gun-Free Schools Act of 1994[27]

The Gun-Free Schools Act of 1994 was enacted on October 20, 1994 as part of the Improving America's Schools Act of 1994. The statute requires that each state receiving federal funds under the Elementary and Secondary Education Act of 1965 have a law requiring local educational agencies to expel from school for a period of not less than one year any student determined to have brought a weapon to school. A "weapon" is defined to mean the same as a "firearm."[28] The state law was required to be in place by October 20, 1995.

The statute specifies that no federal funds are to be made available to a local educational agency unless it has a policy requiring referral to the criminal justice or juvenile delinquency system, of any student who brings a firearm or weapon to a school served by such agency. The Department of Education has issued guidelines to state educational agencies and local educational agencies concerning the implementation of the Gun-Free Schools Act of 1994.[29]

21. *Lovell*, 847 F. Supp. 780, 783.
22. *Lovell*, 90 F.3d 367, 372.
23. *Id.* at 373.
24. Mike McPhee, THE DENVER POST, February 10, 2000.
25. *Id.*
26. *Id.*
27. 20 U.S.C. § 8921.
28. 18 U.S.C. § 921 (1990).
29. U.S. Department of Education, Office of Elementary & Secondary Education, *Non-Regulatory Guidance for Implementing the Gun-Free Schools Act of 1994* (October 31, 1995).

"Zero Tolerance" and the Gun-Free Schools Act of 1994

With the enactment of the Gun-Free Schools Act of 1994, "zero tolerance" of guns in schools became the law. However, that Act also requires that each state law implementing its requirements must allow for the local school district's chief officer to modify the expulsion requirement on a case-by-case basis. The Act also states that nothing in it shall be construed to prevent a state from allowing a local education agency that has suspended a student for one year from providing alternative educational services to that student. In 1997-98, 43 percent of students suspended for one year in accordance with the Gun-Free Schools Act were referred for an alternative placement.[30]

State Laws Concerning Weapons in Schools

A variety of state laws might bear on the subject of weapons in schools. A state-by-state compendium of such laws is beyond the scope of this article. School board attorneys must be familiar with the applicable statutes and regulations in their own states. Among the types of statutes some states have adopted to address the problem of weapons in the schools are the following:

- student suspension and expulsion statutes;[31]
- criminal weapon possession statutes;[32]
- statutes providing for parental liability for possession of a firearm on school property by children;[33]
- criminal statutes concerning damage to school property;[34] and
- criminal statutes prohibiting minors' access to firearms.[35]

PRIVACY RIGHTS VS. INFORMATION SHARING

Another of the more thorny issues school officials must face when dealing with potentially dangerous or threatening behavior is whether to communicate information about a student to others within or outside of the school setting. Recent conferences on the issue of school violence have focused on concerns about effective communication among school officials, law enforcement officials, social service agencies, juvenile courts, prosecutors, adult courts, social workers, guidance counselors, and others to whom specific privacy acts or regulations may apply.

Within the school setting, educators deal daily with the Family Educational Rights and Privacy Act (FERPA).[36] Among the many lessons learned from studying incidents of school violence, particularly the more violent ones, is that there is some degree of "leakage" of information before the act occurs. Similarly, there are behaviors that may be indicators or precursors to violence. School officials recognize the need to be attentive to these behaviors and to share their concern about them with other agencies that may be responsible for the delivery of services to children. Yet, educators who may be the first to detect warning signs often are reluctant to share information out of concern for individual student's right to privacy. Just as often, however, they are fearful of disclosing information because they do not know the limits of what they may or may not be able to share.

At the other end of the system, juvenile justice officials often have been reluctant to share information about students in their charge. They also may be constrained by state or federal law,[37] or may feel constrained by their own lack of knowledge about the

30. U.S. Department of Education, REPORT ON STATE IMPLEMENTATION OF THE GUN-FREE SCHOOLS ACT; SCHOOL YEAR 1997-98 (1999).

31. *E.g.*, TEX. EDUC. CODE ANN. § 21.3011 (West 1992).

32. *E.g.*, N.C. GEN STAT. § 14-269.2; COLO. REV. STAT. § 18-12-105.5 (1994).

33. *E.g.*, OKLA. STAT. ANN. TIT. 21, § 858 (West 1994).

34. *E.g.*, MISS. CODE ANN. § 97-17-3 (1993).

35. *E.g.*, N.C. GEN. STAT. § 14-315.1 (1993).

36. 20 U.S.C. § 1232g.

37. *See* 18 U.S.C. § 5038, *Use of Juvenile Records.*

legitimate release of information. It is beyond the scope of this article to address the sharing of juvenile records. Each jurisdiction has separate statutes that must be consulted.[38]

In response to these concerns, the U.S. Department of Justice and the U.S. Department of Education issued a joint report citing the need to forge partnerships to share information among schools, youth-serving agencies, law enforcement, court systems, youth parole and probation offices, and child protection agencies.[39] The report stresses the need to develop interagency information-sharing agreements "to fully involve the schools in a holistic approach to intervention and delinquency prevention."[40]

The report describes the problem and the need as follows:

> In an era of scarce resources and alarming juvenile violence, all agencies serving children and families need to maximize their ability to share information so they can coordinate their services to make them more effective. . . .No student's needs should be neglected — and no school community should go unprotected — because of confusion over the extent of the right to privacy. Educators typically approach participation in agency information-sharing programs with caution because they have legitimate concerns about the privacy of students and their families. To a large extent, their caution reflects an awareness of legal restrictions on information sharing.[41]

The report provides guidance on the Family Educational Rights and Privacy Act, noting that it "need not be an impediment to full participation by educators in their community's efforts to serve the needs of juveniles. Educators and those providing services to our children share a common ultimate goal to see all children grow and thrive in safe homes, schools, and communities and become healthy, productive members of society."[42]

FERPA restricts school officials from releasing personally identifiable information from school records without consent of a student's parents or the student, if the student is at least age 18.

School officials are free to share information with others about students if that information is based on their personal knowledge or observation and does not rely on the contents of an education record. Oral referrals to other agencies that are based on personal observations are not subject to the provisions of FERPA. Educators should be careful, though, not to circumvent the requirements of FERPA by making an oral referral that is based upon knowledge obtained from education records.

If the information is being disclosed from an education record, it must be done with prior consent, or must be based upon a number of statutory exceptions to the prior consent requirement. A number of those exceptions may relate to school safety and violence issues. If disclosures are made pursuant to the specific exceptions outlined below,[43] they may enhance school safety without violating an individual student's rights under FERPA.

38. Several states have enacted laws specifically requiring reporting of certain information or sharing juvenile records with school officials. *See, e.g.* North Carolina Safe Schools Act, N.C. GEN. STAT. § 115C-404; §§ 7B-3100 to -3101.

39. SHARING INFORMATION: A GUIDE TO THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT AND PARTICIPATION IN JUVENILE JUSTICE PROGRAMS (1997).

40. *Id.* at iii.

41. *Id.* at 1.

42. *Id.*

43. The exceptions listed in this article are only those most likely to pertain to issues of school violence and student safety. There are other exceptions to FERPA's prior consent requirements that are beyond the scope of this article and thus not detailed here.

WHEN DISCLOSURES MAY BE MADE WITHOUT CONSENT UNDER FERPA

- To provide information from the school's law enforcement unit records. (34 C.F.R. 99.8)
- To provide "directory information." (34 C.F.R. 99.37)
- In connection with a health or safety emergency. (34 C.F.R. 99.31(a)(10))
- To state and local officials in compliance with a state statute that concerns the juvenile justice system and its ability to effectively serve (prior to adjudication) the student whose records are being released. (34 C.F.R. 99.31(a)(5); 34 C.F.R. 99.38)
- To comply with a judicial order or lawfully issued subpoena. In such event, the school must make a reasonable effort to notify the parent or eligible student of the court order or subpoena in advance of compliance, unless the court orders no notice be made or the subpoena is issued by a federal grand jury. (34 C.F.R. 99.31(a)(9))
- To other school officials, including teachers within the district, who have a legitimate educational interest in reviewing the record in order to fulfill their responsibility. (34 C.F.R. 99.31(a)(1))
- To teachers and school officials in other schools who have a legitimate educational interest in the behavior of the student, when the information concerns disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community. (34 C.F.R. 99.36)

Exception for Law Enforcement Unit Records

Under FERPA, schools may disclose information from "law enforcement unit records" to anyone because such records are specifically excluded from the definition of "education records" which are subject to FERPA restrictions. This exception applies to a "law enforcement unit" which is a component of the school district. It can consist of commissioned police officers or non-commissioned security guards who are officially authorized by the school district to enforce laws or to maintain security. School systems may employ officers or may designate an individual in the school system to carry out the responsibilities of a law enforcement unit.

This exemption specifically applies to records that a law enforcement unit creates and maintains for a law enforcement purpose. If the record is created for a purpose other than law enforcement, it would then be subject to the FERPA protections, even if the records were in the possession of the law enforcement unit.

Many school districts have "school resource officers," D.A.R.E. officers, or have made other arrangements to share the cost of having a local law enforcement official assigned to the school system. These individuals may not be a school law enforcement unit. The U.S. Department of Justice and the U.S. Department of Education encourage schools without separate law enforcement units to develop working relationships with local police authorities through a contract or memorandum of understanding that officially designates a local police officer as the school district's law enforcement unit. Without such a designation, FERPA would prevent the school from disclosing information from a student's education records, unless other exceptions (*e.g.*, the health or safety exception) applied.

In the school system's annual notification of FERPA rights to parents and students, the district should include the designation of a "law enforcement unit" in the section dealing with those to whom information may be disclosed for the purpose of maintaining safe schools.

Nothing in FERPA prevents school officials from disclosing to law enforcement authorities information that is based on their own personal knowledge or observations and not from an education record.

Directory Information Exception

A school can disclose "directory information" from an educational record without prior consent, provided it has given prior notice of its intention to do so. Directory information may include items such as the student's name, address, telephone number, date and place of birth, major field of study, school activities, dates of attendance, height and weight (for sports), degrees and honors received, most recent school attended, and photograph. Before disclosing any of this information, the school district must establish a policy and inform parents and students of the information they intend to disclose. Parents may notify school systems if they do not want this information disclosed or wish to retain the right to prior consent to its disclosure.

Exception for a Health or Safety Emergency

In certain situations, when the need for information is crucial to prevent an emergency or dangerous situation, school officials may make use of the health or safety emergency exception to FERPA. School officials may determine what constitutes an emergency, but must do so in good faith and must strictly construe the term. When a health or safety emergency exists, school officials may share relevant information about students involved with any appropriate person whose knowledge of the information is needed to protect the health or safety of the student or other individuals. An appropriate record must be made of any such disclosure.

State Law Juvenile Justice System Exception

FERPA recognizes that schools play an integral role in identifying children at risk of delinquency and providing services to them before they become involved in the juvenile justice system. In 1994, FERPA was modified to allow school officials to share with juvenile justice system officials, information on children who are at risk of involvement, or have become involved in the juvenile justice system, prior to adjudication. State law may limit this exception. Officials to whom the information is disclosed must certify in writing that they will not disclose personally identifiable information to any third party except as provided by state law.

Several states have adopted specific statutes in response to this amendment. The following four conditions must be met prior to disclosure of information under this exception:[44]

- the disclosure must be made to a state or local juvenile justice system agency;
- the disclosure must be based on a state statute authorizing it;
- the disclosure must relate to the juvenile system's ability to serve, the students whose records are being released, if the state law was passed prior to November 19, 1974 (when FERPA was enacted); if enacted after this date, the disclosure must relate to the system's ability to serve the student prior to adjudication; and
- state or local officials must certify, in writing, that the institution or individual receiving the personally identifiable information has agreed not to disclose it to a third party, other than another juvenile justice system agency.

Recordkeeping Requirements Apply to Exceptions

Disclosures made under these exceptions still are subject to the FERPA recordkeeping requirements. The school must maintain a

44. 34 C.F.R. 99.38.

listing of everyone who has requested or obtained access to the student's records, specifying the legitimate interest that party had in obtaining the information. The listing should be kept with the student's education records. This recordkeeping requirement does not apply to school officials within the school system, others who seek directory information, or to a party who requested or received records as directed by a federal grand jury or subpoena when the issuing court or agency ordered nondisclosure.

Multi-Agency Agreements

Within the framework provided by these exceptions to FERPA (and any relevant state laws), school districts, juvenile justice agencies, law enforcement agencies, child welfare agencies, social service agencies, mental health agencies, district attorney offices, correction officials, public defenders and others may enter into multi-agency agreements. (See Appendix I for sample interagency agreement.) These agreements may deter delinquency, provide for appropriate early intervention, promote community safety, eliminate duplication of services, provide greater coordination of services, and ultimately better serve the needs of children at risk. Before developing a multi-agency agreement, however, state laws must be identified and reviewed for their application, consistent with the FERPA exceptions noted above.

Ultimately, it is in the best interest of students at risk and school officials to provide early intervention and assistance. FERPA exceptions enable, rather than restrict the ability to serve children in need of assistance, if school officials are aware of and know how to properly utilize information that is not restricted from disclosure.

To the extent that concerns over territory, privacy, access, and control of information restrict the ability to serve children, they are counterproductive to everyone's interests with regard to school violence. Further, such concerns do little to enhance student's rights.

CONCLUSION

In his seventh annual "State of American Education Address" on February 22, 2000, U.S. Secretary of Education Richard W. Riley offered these words of guidance and wisdom, succinctly putting into perspective the issue of school violence and discipline:

> Fortunately, the vast number of America's schools are free of serious violence. The issue that really dominates a principal's time is discipline. Just as students have to be responsible for their actions, school officials need to have sensible, sound and equitable discipline policies in place.
>
> A sound discipline policy is one that ensures school safety, promotes student responsibility, and furthers the education of every student. And when a student is suspended, that idle teenager should not be tempted to get into more trouble because of having been put on the street. Just the opposite should take place — the student should be buried in books and counseled to help turn his life around before it is too late. No student should be punished by being denied an education. An equitable discipline policy treats all students fairly regardless of their race or gender. School districts need to carefully review their discipline policies to make sure that they are clear, firm, and just.[45]

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45. Remarks of Richard W. Riley, U.S. Secretary of Education, *Setting New Expectations*, SEVENTH ANNUAL STATE OF AMERICAN EDUCATION ADDRESS (February 22, 2000).

The Attorney's Role in Responding to Violence: Lessons from Jonesboro

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INTRODUCTION

Violence in the work place and on the campus have become a dreaded reality for employers, employees, students, parents, and the entire community.

Work place tragedies are endemic both in the public and private sector.[1] Nearly one million Americans each year are victims of violent crime while working; one in every 100,000 employees dies a victim of workplace homicide, and homicide now accounts for 17% of all occupational fatalities, making it the second leading cause of job-related death (and the single leading cause of death for working women).[2] An estimated 1.8 million work days each year are lost in this country due to workplace violent crime, causing over $55 million in lost wages.

Faced with these staggering consequences, large and small business alike have swamped law enforcement officials and private attorneys with requests for guidance in handling the challenges posed by this growing problem.[3] Legislators and regulatory bodies have begun to study and address the issue of workplace violence with new laws and regulations. Agencies previously responsible for maintaining data and designing solutions in the traditional arenas of public health and occupational safety are increasingly being expected to help address the problem of violence as well. And a whole industry of crisis management experts has sprung up to help cope with the problem.

Crisis management has become a hot topic at conferences, with consultants hawking their skills to eager managers through training seminars, Web sites,[4] and countless publications. Training and preparedness planning, including sophisticated simulations and role-playing complete with paid actors and computer-assisted graphics, are increasingly common.

There has been an explosion of research and publishing about the interrelated phenomena of workplace violence and corporate crisis management, some specifically targeting attorneys. Consultant Steven Fink of Lexicon Communications Corporation, with experience in both the private and public sector (he advised former Pennsylvania Governor Thornburgh during the Three Mile Island nuclear plant disaster), observes that lawyers have much to learn about crisis management. "A savvy lawyer who understands the field can be a tremendous boon to a company in

1. Note that a "workplace violence" incident can also be a school violence crisis, when one school employee attacks another on campus, as in the gun violence at Chelsea High in Michigan, for example.

2. Bureau of Labor Statistics, U.S. Dep't of Labor, USDL-94-384 (Aug. 10, 1994); Bureau of Justice Statistics, CRIME DATA BRIEF: VIOLENCE AND THEFT IN THE WORKPLACE, NCJ-148199 (Jul. 1994).

3. Littler Mendelson, TERROR AND VIOLENCE IN THE WORKPLACE, Foreword (3rd ed.) (1996).

4. Examples available on the World Wide Web for business use are the publication of the Federal Emergency Management Administration's *Business Recovery Checklist*, <www.fema.gov/ofm/brecov1.htm>, and Crisis Management International <www.cmiatl.com/>.

working its way through a crisis, but a short-sighted lawyer can do irreparable harm."[5]

While work place violence has become both commonplace and tragic, nothing seems to compare to the shock and horror created in the hearts of the entire community when violence occurs on a school campus. But, in contrast to the resources generated to handle work place violence, there are comparatively few resources whose major thrust is to guide school attorneys in the area of crisis management and violence. No legal periodicals were found specifically addressing the school attorney's practical concerns in a crisis.[6] No case law was found shedding light on the obligations of school attorneys in the aftermath of school violence.

This article is intended as a starting place for attorneys assisting districts to face crisis situations. It urges school attorneys to apply, in their handling of a school crisis, the lessons learned by private businesses and their lawyers and public administrators trained in disaster management. School board attorneys are specifically encouraged to become aware of the private and public crises management resources available and be at the forefront of working with these resources when the need arises.

TRAGEDY IN JONESBORO, ARKANSAS

The shootings in Jonesboro were unique in that this tragedy injured and/or killed a very large number of people, occurred in the youngest school environment of any major campus incident to date, was perpetrated by the youngest children (both under 14), and appears to be the most methodically planned.

The media reported the story like this:

> On March 24th, 1998, two young boys, ages 11 and 13, skipped school and went to the oldest boy's house with a blow-torch, bent on obtaining an arsenal of weapons. When unsuccessful, they then went to the youngest boy's grandfather's residence. They were able to break in and secure weapons and ammunition. Following this, they carefully orchestrated a planned ambush of fellow students at Westside Middle School.[7]

The ambush was orchestrated by use of the fire alarm. At least monthly fire alarms sound and interrupt class, usually to the glee of students and the chagrin of teachers, and students and teachers dutifully line up and shuffle outside the school building to ensure preparedness in the event of a fire. Only on March 24, 1998, at 12:30 PM, the fire alarm rang not as a drill for fire preparedness, but as part of a calculated plan of two boys to lure fellow classmates and teachers out of the building. As the adults and children filed from the building, they were in the gun sights of 13-year-old Mitchell Johnson and 11-year-old Andrew Golden who were hidden in the woods approximately 75 yards away. Both Johnson and Golden were dressed in camouflage and heavily armed in preparation for their ambush.

> The attack killed 4 students and 1 teacher and wounded 10. The assailants primarily used a 30.06 deer rifle equipped with a high power scope, and an M-1 carbine. Hundreds of rounds were fired into the crowd of students and teachers as they evacuated the building, where one of the boys had set off a fire alarm. The boys were apparently aware of the school's evacuation plan and knew that the first

5. Lexicon's website is www.crisismanagement.com.

6. General overviews of the topic of school violence written for lawyers include: *Campus Safety: A Legal Imperative*, 33 EDUC. REP. 981 (1986); *Federal, State and Local Responses to Public School Violence*, 120 EDUC. REP. 877 (1999); *Security in the Schoolhouse*, 120 EDUC. REP. (1997). An overview of the topics violence prevention and trauma counseling in the school setting appears in Judy Davidson, *Lessons Learned from Horrendous Losses*, UPDATING SCHOOL POLICIES 29:4 (Nat'l Education Policy Network, Aug./Sept. 1998). The impact of natural disasters and civil disturbances on courts and the judicial system is discussed in *The Effect of Disasters on Courts: An Introduction*, 37 No. 4 JUDGES' J. 4 (Fall 1998).

7. 95 J. OF ARK. MED. SOC., 71 (July 1998).

class exiting the building would be mostly girls, some of which were apparently targeted by the boys because of prior arguments.[8]

The boys were apprehended almost immediately following the shooting and taken into custody.

The Medical Response

The initial call to St. Bernards Regional Medical Center was received at approximately 12:41 p.m. This call reported a shooting at Westside Middle School, with no mention of the number or types of injuries. When the call was received, the surgeons on call and the operating room staff were notified of a possible gunshot victim. Within the next five minutes the hospital was notified of multiple victims at the scene, with three "trauma codes" being transported. It was at this time the hospital's earthquake disaster plan was instigated. As luck would have it, the afternoon cases had not yet started in full swing, so the OR suites were kept available, which later proved critical in being able to handle the large number of critically wounded. Within 10-15 minutes of the initiation of the disaster plan, there were six general surgeons, two cardiovascular surgeons, one neurosurgeon, and five orthopedic surgeons in the Emergency Department. Three emergency physicians assisted them. The chief emergency room physician supervised the staff.

The surgeons were each assigned a room along with a nurse from either the emergency department or intensive care. Some rooms were assigned two surgeons, and were reserved for more critically injured patients. Triage responsibilities were given to the emergency physicians. Every patient was cared for and/or operated on within 80 minutes of the shooting. Within 12 days, all patients surviving surgery with repairable wounds had been discharged from the hospital in satisfactory condition.

Just as there was cooperation among the various ambulance services and personnel, there was equal teamwork among the various surgeons and other physicians with the hospital. Less than 20 minutes following the 911 call, there were radio requests for blood, and people had to be turned away from the Red Cross centers because of the overwhelming response.[9]

Media Response

Within minutes of the shooting, the first media person had arrived at the school. Curt Hodges, a staffer of the Jonesboro Sun and ten year veteran of local TV, heard of the incident *and was at the school within 10 minutes.* He and a local TV reporter arrived at the same time. "I could hear kids back there crying. I could hear people hollering," Hodges said.

There are no news photos of the shooting victims lying outside the school. Hodges had a camera with him, and did take a widely distributed photo of one of the victims being rushed from the scene on a gurney. But as he was about to round the corner of the school to where the shootings had taken place, he encountered a police officer who said, "You don't need to be around there."

Hodges said he told the officer he wasn't going to take photographs. "I know it," the officer said, "but it's really bad, and I would really appreciate it if you wouldn't go back there." Hodges obeyed. Did he consider disregarding the officer so he could see, and maybe photograph, the victims and the blood? "No, I didn't. I might have if I worked different, but I never have worked that way."[10]

An hour and ten minutes after the shootings, the Little Rock Associated Press reported the events to the nation. By 3:00 PM the out-of-town media began to arrive.

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8. *Id.*

9. *Id.* at 71-72.

10. JONESBORO: WERE THE MEDIA FAIR? 5 (The Freedom Forum, World Center, 1101 Wilson Blvd., Arlington, VA 22209).

From March 24-31, about 70 U.S. and foreign news organizations sent more than 200 reporters, photographers, and support staff to cover the shooting. CBS alone initially dispatched 8, but that number more than doubled to 17 by weekend. From L.A., New York, Great Britain, Japan, Norway, to mention a few—they all came.

Local Law Enforcement Response

Within minutes of the AP report, Jonesboro Police Chief Floyd Johnson got a call from his counterpart in Pearl, Mississippi, with an offer to assist and advise. "You've never seen anything like what's going to happen," he told Johnson. While Johnson thought he'd seen it all in terms of media, having witnessed media coverage of two killer tornados in Jonesboro —he was wrong.

By 1:00 p.m. the Director of the State Police had dispatched Bill Sadler, its media specialist, on a plane to Jonesboro. "Even as I boarded the aircraft, I began making preparation over a cell phone with every media representative that I could think of who would be interested in that story on a local basis. I knew it was going to be of statewide interest, so I contacted our state news media, scheduled a 4 p.m. news conference, making notification while en route," Sadler said. "We landed, and I went straight to our state headquarters where I received a telephone briefing and a briefing from one of the troopers who had been at the scene. Minutes, literally minutes, before the 4 o'clock news conference, I met the prosecutor and Sheriff Haas for the first time and explained to them what I felt like we were going to be able to address in that news conference based on what little information we had at that time."

When he had walked through the door at state police headquarters in Jonesboro at 2:30 p.m., Sadler said, he was handed messages from dozens of news organizations. Twenty-four hours later, hundreds of media representatives were in Jonesboro. Sadler's message stack by then was 1 1/2 inches thick, reflecting 285 media calls.

Sheriff Haas was so shaken by the shootings that he broke down in tears in the early media briefing. He, too, was overwhelmed by the number of journalists.[11]

The media set up on the district property that day and were allowed to remain overnight.

The next day was different. The attorney for the school district, Keith Blackman, Sheriff Dale Haas, and other local officials defined the perimeter and moved the media out. While Chief Johnson criticized Haas for not moving the media out sooner, the actual idea to seek help with the media came from some of the experienced reporters. By Wednesday, Haas asked Sadler to handle the media. Sadler, a former television journalist who also had worked for the Jonesboro Sun early in his career, quickly agreed. He set up shop at the sheriff's office, where Golden and Johnson were being held.

"At that point in time, all of us knew that this was going to be a long, drawn-out affair, and it was only going to get worse as far as the amount of media that we were going to be dealing with," Sadler said. "My main concern was to be out there in front of those reporters and make them aware that I was available at least on an hourly basis. And if I could do that on an hourly basis, at least no one could say that we were stonewalling or that we had a closed-door mentality. I was going to get out there and try to answer every question I could answer, down to and including, "Where are the boys right now?" "What's the color of the brick outside the cell?" "Describe the cell block for us," That kind of thing.[12]

Law and Order

The first judicial hearing for the suspects was held before juvenile court Judge Ralph Wilson. Prior to the hearing rumors circulated that the judge might allow some local media coverage of the proceeding. At the hearing the judge stated:

> We have here a situation that outweighs what may have been the intent in the way the juvenile law was constructed, and

11. *Id.* at 6-7.

12 *Id.* at 7.

> I am going to allow the envelope to be stretched a little bit. I am not going to jeopardize the integrity of the case, but the public's right to know far outweighs what protection we might typically offer a juvenile in certainly a much less serious case.[13]

Before the hearing was to begin, the judge expanded his definition of "local press" and, in addition to Jonesboro news media, reporters from Memphis and Little Rock television were allowed to attend. CBS, NBC, and Fox were also represented, as well as the *Arkansas Democrat-Gazette* of Little Rock, *The Commercial Appeal* of Memphis, Tennessee and the Associated Press.

CRISIS STRATEGIES FOR SCHOOL ATTORNEYS

Be Prepared Before a Crisis Hits

Nick Waters, Director of Orange County Emergency Management, Hillsboro, North Carolina, provides by far the most sage advice:

> I suggest that you adopt a simple philosophy when formulating a plan, which is that this is your disaster and you must manage it independently until assistance arrives. Many times we have an expectation, and in fact a dependency on emergency services or other outside resources handling disasters for us. That may work most of the time, however there is always the possibility that you are the second or third disaster, and outside resources may not be readily available. Beyond that, it is extremely important that what happens in the first two or three minutes is consistent with what will happen over the next 30 to 40 minutes.

A huge part of the success of the Jonesboro management strategy resulted from the district's ability to rely on its earthquake plan. This plan was much more inclusive than the one required by the school code.[14] The emergency management was comprehensive, involving school officials, emergency services, law enforcement, local government, school board, and media.

A review of at least 15 school disaster plans, including those of Jonesboro, Fayetteville, Arkansas, Los Angeles and San Diego, yielded no mention of the expected role of the school attorney. Significantly, none of the plans included the attorney as part of the "crisis team." In Jonesboro, the board's attorney, Keith Blackman, played a crucial role in defining the perimeter to control media and other ingress and egress, drafting and approving press releases, and negotiating with local law enforcement and press regarding release of names of injured, dead, and of the arrested juveniles. His role was defined in the minute, not as a result of planning or practice. His experience as a retired colonel added significantly to his ability to set up command organization. Yet he agrees that the school district attorney must now prepare for crisis management.

The Jonesboro crisis demonstrates that, like corporate and labor counsel in the private sector, school attorneys must play a central role in helping school districts prepare for crisis situations. While the topic of prevention of violence and preparation and the adoption of school safety plans is beyond the scope of this article, school attorneys should keep in mind some concrete steps to assist districts in the plan-development process that will serve them well when a crisis hits. Most importantly, the school disaster plan must be tailored to each individual school.

- **Be Involved in Training**

School attorneys should attend their districts' training seminars and planning meetings when the topic is crisis incidents. "I've never had a school attorney sit in the room when I've done trainings," reports Linda

13. *Id.* at 8.

14. Ark. Code Ann. § 6-28-1001 *et seq.*

Sargent, a "safe schools" expert under contract with the California Department of Education who conducts statewide in-service trainings in safety development. "Having attorneys in our trainings would be great," she says. "It's very much needed. Lawyers are useful to have in meetings like ours, because they're great at dreaming up all the things that could go wrong in a situation, which challenges folks to plan better."

School psychologist and adolescent suicide expert Dr. Rich Lieberman of Los Angeles Unified School District agrees there is a need for attorneys to be trained in conjunction with other staff who are called on in a crisis. "I've done hundreds of trainings and attended hundreds more, and I don't recall having a lawyer present." The growing recognition of a tort of "negligent training" of employees with respect to work place violence suggests district counsel should also advise their clients about appropriate training for administrators and teachers on how to recognize and defuse potential violence.

- **Establish Sound Investigation Practices**

Because violent incidents often escalate from seemingly insignificant events such as playground arguments or momentary disappointments of employees, attorneys must advise their clients to take all threats of violence seriously and to document and investigate them when they occur. School attorneys may want to take a more active role than they traditionally have in reviewing documents prepared in the course of investigations of these incidents.

- **Personally Know Key School Crisis Personnel**

School attorneys should make a conscious effort to get to know and learn to work cooperatively with the other school personnel likely to be involved in managing a crisis. Special care should be taken to establish a good working relationship with those likely to serve as public relations spokespersons, even in those districts lacking a public information professional. In those districts, attorneys should be consulted on the question of designating who in the organizational structure will serve as spokesperson during and after a crisis (and who will fill in if the person designated is unable to serve).

- **Designate a Chain of Command**

An effective emergency response plan for schools should designate a chain of command or team of specific individuals (and alternates) who will be expected to take responsibility in a crisis. It will, secondly, spell out procedures for who will be notified immediately upon a crisis occurring (and will define what is to be regarded as a "crisis" that triggers the plan procedures). Typically, plans list medical, fire, and police authorities, internal security, mental health counselors, victims' families, and others. Included in the list of names of those persons should be the school's attorney(s).

School attorneys should establish guidelines for how and when other school personnel can contact them in a crisis for advice. All too often, it appears the school's legal counsel wakes to read of the crisis in the morning news. Kern County Schools General Counsel Frank Fekete says, "I always tell the superintendent to please call me right away. A good lawyer can help make sure the staff is thinking about all the things they should be thinking about in addition to all the things they are already thinking about."

- **Review Relevant School Documents**

In advance of crises, school attorneys should familiarize themselves with and know how to answer inquiries from staff about notifications and announcements that schools keep on hand for use in emergencies, including school closure notices and visitor policies. School attorneys should also review in advance all referral resource lists that might be utilized by staff in a crisis to avoid liability for inap-

propriate referrals while still making sure that parents, families, and staff will receive necessary assistance with funeral arrangements, housing, medical treatment, victim's assistance programs, assistance with workers compensation forms (for staff injuries), insurance claims, and other forms.

- **Know the Law**

Attorneys need to ask themselves "what laws will I need to know and how will I be able to find relevant law quickly when a crisis hits." The specific statutes and regulations will, of course, differ from state to state, but generally speaking should include law pertaining to such items as juvenile justice, confidentiality and privilege, public record access, school discipline, employment, controlled substances, firearms, trespassing, and loitering. (See Appendix J for sample checklist of California statutory provisions related to school safety.)

Attorneys should be familiar with the law bearing on the right of access to schools, which differ widely among jurisdictions. Applicable law will usually be found in the penal code.[15] One practical tip: consider assembling all documents for ready access in one specially marked file, envelope, or box. Attorneys will want ready access to their specialized legal materials, emergency protocols, and forms. Consider keeping a copy at home and in your car.

It is extremely important to have a comprehensive grasp on the juvenile law of your state. For example, in Arkansas the issue of releasing a juvenile's name to the media is an open question, but in other states, the law may be definitive. Other relevant laws relating to schools such as loitering and trespassing should be utilized as well. These statutes were employed during the aftermath of the Jonesboro shootings.

A school attorney with a thorough knowledge of the laws controlling a state's juvenile justice system can assist his school district client in several ways in the aftermath of a violent incident involving students. The attorney can help the school district understand the differences between the purposes and processes of the juvenile justice system and school disciplinary proceedings. For example, the juvenile justice system may place priority on punishment of offenders while the school district may focus on safety concerns. The attorney should explain the juvenile court process to school officials and how they may be required to cooperate with the prosecuting attorney and possibly participate in juvenile court hearings. The Family Educational Rights and Privacy Act (FERPA) and state confidentiality laws that govern what information school officials may disclose to juvenile authorities should be reviewed closely. Disclosure of student information to other parties involved in the juvenile proceedings, such as defense counsel or youth services agencies, should also be discussed.

Schools should be advised not to forego their own investigative and disciplinary action in anticipation of police investigation and juvenile court adjudication. School officials should be aware that court proceedings may be repeatedly delayed and that sometimes the matter will be dropped for reasons having nothing to do with whether the child committed the charged offense. They should also be apprised that state law may prevent or inhibit the sharing of information gathered through the criminal justice process.

The school attorney should also spell out the possible court-ordered placements of a child who is awaiting "trial". State law may allow the child to remain in the community under certain conditions, which may include

15. In California, the legislature amended its penal code in 1984 in recognition of the large number of series crimes on campuses committed by persons who are neither students nor employees. California requires visitors to register in the principal's office and regulates when a principal may exclude a visitor. CALIF. PENAL CODE § 627 *et seq.* There is an implied exception for media representatives, however, but even they may be subject to reasonable "time, place and manner" restrictions," says Los Angeles school attorney Howard Friedman.

attending school. School officials should also be provided information about whether the child can be tried as an adult under state law, given the child's age and the offense charged. This may determine which court will exercise jurisdiction and the potential severity of the penalty imposed if the child is found to have committed the offense. School personnel should also be informed of their legal obligations to provide educational services to incarcerated children.

Take Active Role When Crisis Occurs

- **Help Control the Premises**

Littler Mendelson advises its clients to follow a step-by-step process in the first hours and days after a violent incident.[16] After various notification and assessment procedures have been completed by managers and medical and law enforcement authorities have appeared on the scene, the most critical next step is to obtain information about what happened and, most importantly for attorneys, to find witnesses and preserve evidence. Tasks and decisions also will need to be performed in consultation with legal counsel about securing the site and what the proper relationship will be between the client (school)'s investigation and response and any investigation being conducted by law enforcement or government regulatory bodies. The attorney should assist the superintendent in defining the perimeter of the crime zone that will withstand a First Amendment challenge by a curious press. Clearly, the area to be roped off should be defined as well as areas for ingress and egress. The media station also should be predesignated.

A related issue is the necessity of establishing control over the affected premises in order to assist the crisis counselors serve students and staff, and prevent the contamination of future evidence. It is critical that the perimeters be treated like a crime scene. Anticipate, and help your client rehearse protocols for handling the presence of large numbers of outsiders who inevitably descend on the scene of a disaster. Access to school sites by journalists poses a particular challenge (as witness Jonesboro, where the chaos of the shooting incident was itself magnified by the presence of journalists from around the world.

- **Gather Facts**

Harvey Saferstein, a partner with Fried, Frank, Harris, Shriver and Jacobson, stresses the importance of finding witnesses right away. "Find them before the media and the private bar finds them," if possible. Preserving the crime (or disaster) site in its damaged condition is equally important. Saferstein urges attorneys who anticipate litigation following a disaster to hire experts to examine the scene and take photographs right away, "before the plaintiffs' experts start crawling around the scene." School attorneys may want to retain experts and auxiliary personnel such as photographers who are independent from the forensic team investigating on behalf of law enforcement, as large corporations routinely do in anticipation of lawsuits.

- **Protect Privileged Communications**

In a time of crisis, attorneys are likely to be the only ones on a school district's crisis team who know what an attorney-client confidence is; attorneys are certain to be the only ones in a crisis who are "thinking forward" to consider the damage that might be done if a communication with counsel made in the heat of a moment ends up having to be revealed in the course of future litigation.

"After a disaster, the privilege problems can really get messy," says Fried Frank partner Harvey Saferstein, "especially where there are a myriad of government agencies involved and public relations people whose presence might serve to waive the privileges [for attorney-client confidences and work product]."

Normal rules of privilege apply, of course, to school attorneys and protect communica-

16. The steps appears in Littler Mendelson's TERROR AND VIOLENCE IN THE WORKPLACE 159-160, *supra*, n. 3.

tions with the school district as client and the work product of the school's attorney. There may be important differences in the application of privilege and confidentiality law to staff attorneys ("house counsel" or general counsel directly employed by a school district) and outside counsel retained by the district. A separate set of considerations apply when a district (or its insurer) retains tort defense counsel in the aftermath of a disaster — a discussion beyond the scope of this article.

Out of an abundance of caution, one attorney experienced in handling consultations with companies in crisis routinely asks outside public relations and crisis consultants to step outside the room when an executive, for instance, turns to him to ask the inevitable question, "what are our risks if I do this?" Attorney Creighton Magid of Dorsey and Whitney, L.L.P. in Minneapolis, Minnesota, who has written and spoken extensively on the subject of the relationship between attorneys and public relations professionals in the corporate environment, states, "At that point in the meeting, I explain that I would rather not answer that kind of legal question in the presence of the communications counsel," and he or she leaves the room so as not to overhear conversation that might constitute a waiver of the attorney-client privilege.[17] Here, Magid notes, is when the attorney's conscious efforts to familiarize himself or herself with the client's public relations staff or outside consultants in advance of a crisis pays off. "Once you've gotten to know one another's fields," Magid says, "no one takes it as a personal slight to be asked to leave the room by a lawyer."

Courts across the country are split on when and whether the privilege attaches when an attorney is included in a team of management employees of an organization, for the purpose of rendering legal advice, thus it becomes a landmine for lawyers who are often asked to give opinions during a crisis that are in reality a mixture of "business" advice, legal advice, and just plain common sense.[18]

- **Be Aware of Potential Conflicts of Interest**

The school attorney must always be aware of conflicts. In the heat of the moment, it is easy for an attorney to lose sight of who the client is. Conflicts of interest may easily arise, causing the attorney to give advice or reveal information inappropriately in a desire to console or inform a member of a victim's family or a journalist. The school attorney represents only the school or district, not the public at large or individual victim.. In a crisis, the potential for conflicts of interest increases exponentially if, for instance, a relative of the school superintendent or a beloved teacher are among the dead or injured. Under questioning from school officials, family, and local media, the attorney can easily, without intention, compromise the rules of ethics.

- **Ensure Proper Notifications and Release of Information**

Attorneys will have to make quick decisions following a violent incident about who should be notified and the substance of the notification. Attorneys should have prepared their school clients well in advance, so they need only refer to the school crisis management plan to determine the appropriate external and internal notifications necessary.

17. *See* In re Beiter, 16 F.2d 929 (8th Cir. 1994) (attorney-client privilege extended to a non-employee who was present when a manager consulted government attorney, because for purposes of the meeting the non-employee had become the "functional equivalent" of an employee).

18. Courts have reached different outcomes when asked to decide who is a "corporate client" for purposes of becoming a holder of the privilege. *See* D.I. Chadbourne, Inc. v. Superior Court, 60 Cal. 2d 723 (1964); Martin v. Bally's Park Place Hotel & Casino, 983 F.2d 1252 (3d Cir. 1993). A useful overview of the privilege problem in the context of workplace violence appears in Littler, TERROR AND VIOLENCE IN THE WORKPLACE, *supra*, n. 3, which cites both cases and others.

Schools should have pre-existing forms that have been reviewed by legal counsel for use in notifying interested parties after an emergency. Some experts in school violence have published form letters and notices, canned announcements for school assemblies, and even "fill-in-the-blank" condolence messages for use by principals and teachers.[19]

Attorneys need to be aware of, and have immediate access to, the most current versions of any laws and regulations affecting the type of information that may legally be made available to other employees, family members, and the wider community (including the media).[20]

A final word about notification obligations: employment attorneys are often consulted about perceived or potential threats of workplace violence that might—but probably will not—pose a real possibility of later injury to employees. Employers ask, "How much should we tell our employees?" They worry that warning the workforce about potentially violent co-workers or customers may unduly frighten them. Similarly, school attorneys can expect to be asked for opinions about whether a potential victim should be given notice of information obtained during the school's investigation into a problem student or employee. As a general rule, an employer (including a school) is obligated to inform employees of alleged threats of death or serious bodily injury, but such communication should be "limited to those employees with a need to know."[21] Similarly, school attorneys should think through in advance what their jurisdiction's statutes and cases may require school to do when they possess information about a student or employee that makes it foreseeable that a violent incident might occur. No doubt tort law will be developing in this arena across the country in the wake of school shootings.[22]

- **Help Client Implement Crisis Management Plan**

During and in the immediate aftermath of a crisis of violence or natural disaster, it is critical that the affected organization establish a telephone hotline, establish a crisis management telephone "tree," and set up what is termed in the jargon of crisis management experts a "crisis command center." In those areas of the country well-used to dealing with earthquakes and hurricanes, such as California and North Carolina, larger school districts have outfitted crisis response mobile units. "Our mobile command center is parked outside school board headquarters, but we rarely use it," observes Howard Friedman, Assistant General Counsel for Los Angeles Unified School District.

The administrators, health professionals, public relations personnel, and others designated to participate in a school's crisis response team must have easy access to legal advice throughout and following the crisis. The command center should be posted with information on how to reach not only the school's regular attorney but also his/her support staff and any additional other legal counsel who may be specially retained (or tapped from within) to advise in the areas of labor, criminal, or environmental law concerns. In some situations, it may be wise for an attorney to appear on the scene or to be positioned within the command center. To ensure access to counsel, alternative means of communication (such as fax, page, e-mail,

19. Examples appear in Schoenfeldt & Assoc., Educational Consultants, CRISIS RESPONSE TEAM TRAINING MANUAL: LESSENING THE AFTERMATH, (self-published in Foresthill, California).

20. States (and some localities) have widely varying rules on what may be released by schools and by employers (which include schools) generally. There are also some relevant federal statutes and regulations of which school attorneys need to be cognizant. A representative list of statutes from one state appears in Appendix J.

21. Littler, TERROR AND VIOLENCE IN THE WORKPLACE 160, *supra*, n. 3.

22. *See Tarasoff v. Regents of Univ. of Cal.*,17 Cal.3d 425 (1976) (discussing the doctrine of the duty of professionals to warn a foreseeable class of potential victims of violence).

cellular telephones) should be provided to all key personnel.

Several school districts have model crisis management plans. San Diego Unified Schools maintains written plans directing how schools will respond to every conceivable form of disaster from air crashes to tsunami waves[23] Westside Consolidated School District of Jonesboro, Arkansas also has an exemplary plan was developed by Dick Young, Superintendent.[24]

Media and Other External Relations

Lawyers who routinely assist corporate clients during crises have learned much about how their clients—and they themselves—should talk to the media. After air crashes, toxic spills, and fires, the professional wisdom was to counsel one's client to say simply "no comment" and continue to do so.

Attorney Harvey Saferstein says, "I used to advise clients to say 'no comment' for about a week. You can't do that anymore. Today, you simply **must** make statements and do so immediately." But how do attorneys figure out what to let their clients say?

While all media consultants contacted and school board attorneys had invaluable advice on communication with media and other interest groups, the author was equally impressed with the work of Jonesboro Superintendent Dick Young. After having lived through the crisis which forms the underpinning of this article, he formulated the list of crisis communications pointers that appears on pages 3-12 and 3-13.

The question often arises, should the school's attorney serve as press spokesperson? Opinions are divided. Crisis expert Nat Read (a non-attorney) believes "it looks like the client has something to hide," when the attorney does the talking. General counsel Frank Fekete of California, by contrast, considers it part of a school lawyer's proper role to serve as spokesperson upon request. "I am often the best person to decide what to say because I know what can and can't be made public." Both Superintendent Young of Jonesboro and Nick Waters of Emergency Assistance for Orange County disagree and feel strongly that the spokesperson must be a high ranking district official or official from the governmental agency most invested.

If the school attorney does act as the spokesperson, he or she should eehearse how to answer questions from staff, parents, media, and law enforcement. It is important to work through, in advance, how to respond to all such questions without violating confidentiality or privacy laws and without compromising the district's long-term legal interests.

Everyone agrees that attorneys should review press releases and anticipate having to make quick judgments concerning release of internal records to the media and other community members. Once the legal propriety of releasing a document has been decided, attorneys will need to review and line out damaging communications that could serve as admissions against interest or which could arguably reveal statutorily protected confidential information. They must always be on the lookout for documents that create potential future liabilities by unwittingly making falsehoods in an effort to reassure the community — for example, statements concerning a campus's safety which may raise false or unrealistic expectations. Remember, no school can guarantee the absolute safety of its students and staff, and its spokespeople should not try to do so in their eagerness to calm a community.

The following list, while incomplete, serves as a checklist of some documents a school attorney should anticipate having to review for possible use or release after a crisis:

23. The author gratefully acknowledges the assistance of Joanne Sawyer Knoll, General Counsel, San Diego Unified Schools, for providing her district's plans.

24. The author is indebted to Superintendent Dick Young for his invaluable assistance and for his preparation of an outstanding disaster plan which can be obtained by contacting Westside Consolidated School District.

POINTS FOR CRISIS COMMUNICATION: COPING WITH THE UNEXPECTED

In the event of a crisis, you are sure to receive numerous requests for information from parents and the news media. Handle the emergency first; then notify the superintendent at 935-7503. Refer all questions from the news media to the superintendent. Be concerned about questions from the community and persistent reporters. Keep these points in mind:

- ✔ GATHER ALL THE FACTS. Before making any decisions about what to say and to whom know the facts. Don't answer any questions before you know the answers; state that you "don't know but will find out."
- ✔ SPEAK WITH ONE VOICE. Consistency of information released is critical; keep the superintendent's office informed of any statements you make. Inform our staff members of what is being said and the district's position concerning the situation.
- ✔ BE ACCESSIBLE TO THE NEWS MEDIA ONLY THROUGH THE SUPERINTENDENT. Refer reporters' questions to the superintendent as quickly as possible. A crisis is news, and the media will stay on top of it. Filling information gaps has a positive effect on your credibility. Inaccessibility creates an information vacuum that will certainly be filled — if not with facts, then with rumors. Perception can cause more damage than reality in a crisis. Our job is to present the undisputed facts.
- ✔ REPORT YOUR OWN BAD NEWS TO THOSE CONCERNED. Be honest. (A public burial is better than a skeleton in the closet, and the odor doesn't last as long!) The Tylenol crisis did not hurt sales or image. In fact, Tylenol's credibility and image improved because the company was responsive and concerned.
- ✔ RECORD THE EVENTS. Keep a record of what happened at what time. This will help in preparing written communications to parents. The superintendent will help in drafting written communications.
- ✔ MAINTAIN A RELIABLE PRESENCE. Provide evidence to reinforce statements.
- ✔ AVOID SAYING "NO COMMENT." You leave both yourself and the situation open for speculation. If you cannot respond to a question, state that you "don't know the answer but will try to find out," or that you "will comment when more information is available," or refer the question to the superintendent.
- ✔ DO NOT VOLUNTEER ANY UNNECESSARY INFORMATION. This could get you into trouble. In an interview, just answer the questions and wait for the next question. Do not feel obligated to fill in "empty silence" with unnecessary comments, no matter how obligated a reporter makes you feel. Answer only the question asked. Notify the superintendent about any interview conducted.
- ✔ DO NOT DEBATE THE SUBJECT WITH ANYONE. Your priority should be to resolve the situation.
- ✔ DO NOT PLACE BLAME WHEN COMMUNICATING INFORMATION. NASA did a terrible job of crisis communication when the Challenger exploded. They tried to place blame on someone else. The result was conflicting voices that made NASA look suspicious rather than concerned.

- ✔ DO NOT DISTORT THE TRUTH. Being caught in a lie is worse than admitting the truth — no matter how unfavorable.
- ✔ REMEMBER THAT THE SCHOOL'S FIRST RESPONSIBILITY IS TO THE STUDENTS AND THEIR FAMILIES, ESPECIALLY TO THOSE DIRECTLY INVOLVED. When the skywalk collapsed, the Hyatt took care of the victims and families first and corporate interest afterward. You should also take care of the victim and the family first. Respond to questions from students, staff, parents, and the community. Contact the family to discuss how the family wishes to handle release of information.
- ✔ PROTECT THE STUDENT'S IDENTITY WHEN NECESSARY. Remember that students are minors, and identification of students involved in a crisis is not necessarily public information. If a student has been arrested, refer questions about the student's identity to law enforcement officials. If a student has been hospitalized, use your judgement. Depending on the situation, you may want to refer questions about the student's identity to the hospital. You can always refer the question to the superintendent.
- ✔ IF THE INCIDENT AT SCHOOL INVOLVES A VIOLATION OF THE LAW, COOPERATE WITH THE POLICE. Law enforcement officials are in charge of crime scenes and crime sites. Statements involving evidence or potential testimony should be cleared through the police. Photographers should not be allowed on a crime scene without prior police agreement.
- ✔ HELP STAFF HANDLE THE MEDIA. When reporters are allowed on the scene, tell school employees they do not have to make a statement to the media unless they wish to do so. This applies to questions from reporters after working hours, as well.
- ✔ DON'T ALLOW REPORTERS TO INTERVIEW PUPILS. Don't permit reporters to talk to students on school property about a serious incident, particularly when the pupils are very young. However, neither should you attempt to interfere with news media attempts to interview anyone (pupil, parent, staff member) once he or she has left the control and responsibility of the school.
- ✔ PREPARE A WRITTEN COMMUNICATION FOR PARENTS. Send home to their parents a written statement about the incident at the end of the day. The superintendent will help you write a letter. Dispel rumors. Tell parents exactly what happened. Reassure them that their children were safe during the day and will be safe when they return to school tomorrow. Review suspension, expulsion, and safety rules, if applicable
- ✔ PREPARE FOR "DAY TWO" OF THE CRISIS. Hold a staff meeting the first thing in the morning to share factual information and give directions. Also listen and respond accordingly.
- ✔ KEEP THIS RULE OF THUMB IN MIND. Put pupils' interests first. Put school system interests second. Put public interest before personal interest.
- ✔ REMEMBER TIME IS ON YOUR SIDE. The media will become less interested as time goes on. If you respond with genuine concern, you can turn the crisis into an opportunity to enhance the image of your school by providing factual information in an appropriate manner at the appropriate time.
- ✔ USE GOOD JUDGMENT. Although you can plan for the unexpected, something is sure to happen for which you had not planned. Refer to your plan and make adjustments accordingly.

Source: Superintendent Dick Young, Westside Consolidated School District, Jonesboro, Arkansas.

- Accident reports and logs (usually maintained by school nurses and school secretaries);
- Insurance claim records;
- Reports of claims and losses;
- Vandalism work orders, usually maintained by maintenance or custodial office (may reveal areas of vulnerability on a campus and show a pattern establishing that an incident was in some sense "preventable");
- Attendance and truancy records;
- Suspension and expulsion records;
- School crime incident reports (usually maintained by local law enforcement);
- IEPs and other student records on at-risk or "problem" students;
- Employee assistance plan documents (which might reveal troubled employees who sought counseling prior to incident).[25]

Participate in Debriefing

Corporate attorney Reid L. Ashinoff of New York observed at a recent conference for business lawyers:

> Crisis management nowadays requires that lawyers, business people, and public relations people work together to steer through crises and ensure that the particular problem that led to the crisis cannot happen again.[26]

In the aftermath of a school disaster, similarly, it is imperative that officials, representatives of affected groups, and school attorneys "debrief" to determine what can be learned from the crisis, and how to apply those lessons to prepare for the future crisis that is inevitable.

School psychologist Dr. Scott Poland[27] would have welcomed participation by attorneys in the Jonesboro and West Paducah debriefing process. "I would not want attorneys hovering around calling all the shots in the midst of our work at a scene," he says, "but they should be at the debriefings along with the regulars like the mayor, school superintendent, and the rest. I am more than a little horrified to learn long after our counseling work is done that a victim's family [as in W. Paducah] sues the district, the teachers, the principal. It would help us prepare for that shock if we could hear an attorney's perspective on these matters."

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25. List drawn from "Planning for Safe Schools," a publication of the Safe Schools and Violence Prevention Office of the California Dept. of Education. The author acknowledges the assistance of the analyst David Ryan in providing this and many other useful materials and contacts. Mr. Ryan may be reached in Sacramento, California at (916) 323-1024 and at dryan@cde.ca.gov. California's statutory and regulatory scheme for safe schools may be viewed at www.cde.ca.gov/spbranch/safety/safetyhome.html.

26. Reid L. Ashinoff, *Comprehensive Crisis Management: Strategies and Legal Considerations for Responding to Challenges to the Design and Sale of Products and Services* (Sonnenschein Nath & Rosenthal, New York, NY, Seminar, Fall 1998).

27. Many mental health professionals offer specialized crisis counseling services to schools, either on a for-profit or voluntary basis. Public sector professionals in the field of school safety planning and post-crisis response consulted during research for the article include: Ann Weinheimer, Office of Safe & Drug Free School in Washington, D.C.; Linda Sargent, Coordinator in Health & Physical Ed., Kern County (CA), a statewide "safe schools" trainer under contract to the California State Dep't. of Education, and Dr. Rich Lieberman, a school psychologist and expert on adolescent suicide with Los Angeles Unified School District, who served on the crisis response team in the wake of the Jonesboro shootings.

Professional associations and private firms with expertise in crisis counseling who were consulted in the course of research for this paper include: the National Emergency Assistance Team ("NEAT"), a team response service of the National Association of School Psychologists ("NASP") which provides counseling services to those affected by school disasters (contacts: Dr. Scott Poland, Chair, Cypress-Fairbanks School District, Houston, TX (713) 460-7825 or NASP, 4340 E. West Hwy., Bethesda, MD 20814, (301) 657-0270 or www.nasp.web.org); the American Red Cross; the National Organization for Victims Assistance ("NOVA"); the International Association of Trauma Counseling; Mary Schonfeldt (trainer/consultant), Foresthill, CA; RENEW Center for Personal Recovery (Judy Davidson, Ed.D.) of Brea, KY; and Professional Crisis Management Assoc., Inc.

In the debriefing process, school attorneys may become involved in planning for potential future litigation that may result from the crisis. The school's regular lawyer(s) may also want to consult with the district's tort defense or insurance counsel to help prepare for potential litigation after an incident and to coordinate a press strategy during the pre-litigation period.

Counsel should keep a watchful eye, throughout the debriefing process, for evidence bearing on liability. In the post-crisis period — and even for many years to come — attorneys should remind clients that school staff should be discouraged from creating discoverable documents.

School lawyer Howard Friedman notes that "school staff people love to write memos, often trying to assess blame, and these tend to circulate and be kept in files forever." While school attorneys may take tips from corporate counsel who advise clients on how and when lawfully to purge files of unnecessary paperwork that may hurt the organization in unforeseeable ways, school districts will be bound by freedom of information laws varying from state to state, not binding on corporate entities.

CONCLUSION

There is definitely a necessary role for the school attorney in preparing for and in managing the aftermath of disaster. While the role of the school attorney since 1980 has broadened to include far more than facility contracts, school finance, and personnel regulations, the school attorney's role in crisis management heads the emerging list.

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Preparing to Handle the News Media During a Crisis

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In today's education environment, officials and institutions find themselves on the firing line. More often than not, a crisis means a public relations challenge. Whoever serves as the first point of contact for a school has an opportunity to set the stage for how the public and the news media react to the circumstances.

A crisis can take many forms in the school setting. Some—for example, gun violence, hostage situations, demonstrations, natural disasters, chemical contaminations—are "of the moment," at the school, and a potential threat to lives or safety. Other kinds of crises include real or perceived financial wrongdoing, labor negotiations, and teachers' strikes.

One thing common to the above situations is that the damage inflicted on an organization's reputation is determined more often by its handling of a crisis than by the seriousness or outcome of the crisis itself.

While it's true that an essential vehicle for getting out your message is the news media, preparing to handle the news media is just one aspect of overall crisis communication. It's worth reviewing the "big picture" of crisis communication before getting into specifics of preparing to deal with the news media.

THE BEST PREPARATION? HAVE A PLAN.

Crises unfold quickly. Being prepared and ready to anticipate what you'll need to do will help you immeasurably if and when you face a crisis. A plan boosts your ability to manage the situation and minimize the damage with external audiences. Advance planning also enables you to make sure those within your school understand the tough issues you face and how they affect everyone concerned.

Another good reason for advance planning is that in case of a crisis, you will not waste any time debating process or basic facts or procedures when you should be "out front" managing your message and the issues at hand.

Managing the flow of information may be the single most important thing you do in a crisis. Having a plan in place helps you to do that.

Establish a Crisis Communications Team

The *team* should include appropriate school officials, legal counsel, external counsel where applicable, and selected representatives from constituencies as appropriate and desirable. For example, at times it may be prudent to include law enforcement, teachers, or others depending on the nature of the crisis. One person, if possible, should be designated as the spokesperson to deal with the news media.

Develop a Crisis Communications Plan

A *plan* outlines important steps that need to be taken by school officials immediately when a crisis hits—when information must be gathered and distributed quickly and accurately to all who need to know. The plan

will minimize the risk of overlooking an important step in the first 24 hours after a crisis hits, when the time frame for making important decisions is a matter of minutes.

Conduct Crisis Media/Message Training Sessions for the Crisis Team

Crisis *training* is an essential component of advance planning. It helps you focus on core messages about the institution — in this case, the school — and builds the teamwork and rapid response mechanism needed should a crisis hit. Such training has two basic elements: what you'll do when a crisis hits, and how you'll explain what you're doing to others.

Review and Update the Plan Periodically.

A plan on a shelf does little good. Personnel, governance and operations may change, and an evolving public climate should be reflected in your plan.

CRISIS CHECKLIST: ACTION STEPS

Each crisis will be different. Here are some basics for your crisis checklist:

- Assemble the core crisis team according to a predetermined notification list. Contact appropriate legal counsel. Contact appropriate agencies and insurers per legal counsel.
- Notify families in person, if possible (where applicable).
- Address the needs of victims and their families (where applicable).
- Compile all required/available information to make decisions.
- Be ready to play central role, both on the crisis team and publicly as a leader.
- Contact administrative help.
- Notify employees/others.
- Consider counseling for victims, co-workers, families (where applicable).
- Notify appropriate public officials and community or interest groups.
- Draft a factual statement and distribute it to the full crisis team.
- Review who else needs the information, when, and in what sequence.

If the core crisis team determines that outreach should be made to the news media, this should be done as swiftly as possible. One person on the crisis team should coordinate contact with appropriate reporters and, where warranted, editorial boards to set up interviews or meetings.

MANAGING THE NEWS MEDIA

Before, during and after a crisis, public perception of your school will in part be shaped by the news media. It is essential that information shared by the spokesperson with the media is as up-to-date and complete as possible.

It's usually a good idea to respond to media inquiries as soon as possible. Delay in responding to media can create the perception that you have something to hide. Or, that you don't know what you're doing.

At the same time, do not rush to deny or accept responsibility. The initial information you have may be incomplete or wrong. Do your own investigating before reaching any conclusions. (In some cases, that could take days, weeks or months.) You do not have to have all the answers right away, despite the news media's aggressive quest for information.

It's best to keep the number of people and supporting materials to a minimum when meeting with members of the news media. The most effective approach is a clear and persuasive argument, backed up with easily understood facts.

Prepare a basic statement for the media. Make sure that it is reviewed by the core crisis team. Stick to the facts and don't speculate or theorize. Make sure your organization's concerns and compassion are reflected in the statement. A preliminary statement is fine; it

can buy you valuable time. Determine what else you need (question and answer pieces, list of supporters, third-party quotations, background information, and so on).

As soon as you're ready:

- Contact all appropriate media. In most cases, it's best the news media hear from you first about what's happened.
- Provide news bulletins as the crisis evolves/ unfolds.
- Record the names of arriving reporters at the scene and represented media outlets.
- Provide information to all media outlets and record to whom what information is released.
- Receive phone calls from the news media.
- Determine whether an on-site news conference or briefing is necessary.

It is important to work *with*, rather than against, the new media (they are not the enemy!). This will help prevent the spread of misinformation, as well as demonstrate that school officials are concerned for the safety of students, employees and neighbors. You must assure the public that the school administration is taking all steps possible to remedy any crisis and keep people safe. The media can help you do that. Make it clear to the media that you are providing as much information as you can, as soon as possible. At the same time, of course, the school must balance the public's right to know with legal and privacy concerns.

Responding to Negative Stories

Should the news media run a negative story, an *immediate* response should be made in the form of a call to the reporter and/or letter to the editor. In some cases, it's appropriate for the response to come from the most senior official possible. In other cases, you may want to downplay the importance of the story and not have your top spokesperson respond. In any case, stick to the facts and your key messages when formulating your response.

Media Monitoring

Clipping services and radio and television monitoring services can be helpful, should the situation warrant.

THE ABCs OF CRISIS COMMUNICATIONS

Here are a few tips for dealing with the news media that will serve you well in the crisis environment. Thinking about these in advance and making sure your crisis team does the same is good preparation in itself.

The As

- **Anticipation**

Before talking to the media, anticipate likely questions and have answers ready. Be aware of gaps in information, and know where you're most vulnerable to media scrutiny. Know your history with individual media organizations or reporters.

- **Agenda**

Prepare an agenda of points *you* want to make during an interview. Even though there is a tendency in a crisis situation to simply react to media questions, there are still messages you want to communicate about the situation and how you are handling it. Identify three or four major message points and make sure they are repeatedly stated during the interview.

- **Accessibility**

Be accessible to the news media. Many crisis situations call for having the most senior executives do the media interviews. This conveys that you are taking the crisis

seriously. Respond to reporters as quickly as possible, even if only to field a question that you will have to research. You do not want the media to say school officials were unavailable for comment.

The Bs

- **Brevity**

Comments should be concise, informative and relative to the subject of the inquiry. When you start to ramble and move from the subject of the question, you may stray into dangerous or off-point topics.

- **B.S.**

Do not "b.s." the media. You will damage your credibility if you come across as insincere, or even worse, arrogant. Do not gloss over or minimize problems. If you do not know the answer to a question, say so, and let the reporter know that you will do your best to find out the answer as quickly as possible. Also, avoid the phrase "no comment" when possible. In some cases, you may not be able to comment publicly, but try to find a better way to describe your inability to comment. Say something like, "We're still doing our own internal investigation and will have more to tell you later," or "Negotiations are at a very sensitive stage, and it could be harmful if we commented right now."

- **Bad News**

Get out the bad news yourself — do it quickly, and get it over with and behind you. The worst thing you can do is prolong a crisis by stalling so that it drips out like a leaky faucet. Stalling or offering only fragments of the story will create an information gap. That gap will be filled by speculation, or even worse, by misleading or incorrect information from unfriendly sources. Frame the bad news in your own context. This allows you to explain what happened from your perspective. Getting the bad news out quickly yourself will also win you points for candor and credibility with the news media and general public.

The Cs

- **Consistency**

Consistency of message is always important, but it is critical in a crisis. Provide information that is as accurate and up-to-date as possible. Your credibility is already on the line because of the crisis; do not add to your problems by having to go back and correct misinformation. Keep information centralized and make sure the spokesperson is well-briefed by the crisis team before fielding questions.

- **Control**

Take control of the situation quickly. Assemble the core crisis team immediately and make it clear to the media that you are getting control of the situation as best you can—that you are not just "letting things happen."

- **Concern**

While you will understandably be concerned about the school's reputation, your primary concern must be for the people affected by the crisis—the students and their families, the injured, teachers and other employees, whatever the case may be. That concern must come across in your communications with the news media. Do *not*, however, take responsibility for the crisis.

HANDLING UNEXPECTED MEDIA

It is important to be prepared for the media if they call or arrive at the school site. However, should media call or arrive unexpectedly, follow your communications plan to alleviate confusion and avoid the spread of misinformation.

Since schools do not necessarily have a centralized receptionist, it is extremely important that all employees be notified of the situation and instructed *not to answer any questions*, and to forward all media inquiries to a designated contact on the core crisis team and/or the designated spokesperson.

If media or others unexpectedly arrive at the school scene, these guidelines should be followed by the person at the site:

- Do not give out *any* information, no matter how "harmless" it may seem.
- Politely tell the reporter that because of safety measures (or whatever is credible and appropriate to the situation), he/she should wait outside while someone is located to help him/her.
- Another employee should make sure the reporter stays outside.
- Locate the crisis team leader immediately, and if a different person, the spokesperson.
- Escort the reporter to the conference room or other holding area.

LOGISTICS: ORGANIZING A MEDIA INFORMATION CENTER

In a severe emergency, or when a situation draws intense media scrutiny, you may want to set up a media information center to ease communication and manage your message.

The following should be available in the media information center during emergencies or situations that draw intense interest:

- Telephone lines for outgoing calls
- Two cellular phones (in case of power problem)
- Word processor, paper and white-out
- FAX machine
- Photocopying machine
- General media information kit about the school
- Copies of the news release pertaining to the crisis
- Large map of site for briefing
- Smaller, individual maps of the site for media
- Posterboard, black markers, duct tape and scissors
- Radio(s)
- Television(s)
- VCR
- Radios (walkie-talkies)
- Pagers for key personnel
- Notepads, pens and stapler
- Coffee/other refreshments
- Ashtrays
- Administrative assistance
- Small generator in case of power failure

THE AFTERMATH OF A CRISIS: PITFALLS AND OPPORTUNITIES

While the initial burst of activity may subside over the course of hours or days, the aftermath of a crisis can be a dangerous time. It's easy to sigh with relief that the worst is over. Don't fall prey to this temptation; sustain the momentum of interest and use it as a chance to get out positive messages and stories if you can. For example, think about visiting editorial boards, taking out an advertisement in the newspaper, showcasing letters from third-party supporters, reaffirming the school's commitment to quality, safety and performance, and so on.

Keep in mind, too, that separate from the crisis you have just been through, the school may have upcoming plans that will be affected. Reassess your public relations and

community relations efforts to make sure they "fit" given what's just happened.

Finally, you may want to plan substantive activities that will help to reestablish your school administration's reputation and leadership in the community.

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APPENDIX A

COMMON CHARACTERISTICS OF SOME SCHOOL SHOOTERS

Of course, it is impossible to predict the future behavior of individuals simply from past experience with others. There is no true "profile" of a school shooter. Further, a checklist approach to prediction is not advised. However, the suspects involved in the shootings reviewed by the FBI displayed similar traits. These common traits may assist in assessing probabilities of violence. These behaviors and dynamics should not be, by themselves, thought of as the causes of violence, but instead were observed and reported conditions or behaviors. Children who display the traits below, usually on a consistent, recurrent basis rather than as a single event, when living and learning in settings with poor dynamics may be more likely than other children to commit extreme acts of violence.

- The suspects were white males under 18 years old with mass or spree murderer traits.
- They sought to defend narcissistic views or favorable beliefs about themselves, while, at the same time, they had very low self-esteem.
- They experienced a precipitating event that resulted in depression and suicidal thoughts that turned homicidal.
- They lacked, or perceived a lack of, family support. Two of the suspects killed one or both of their parents.
- They felt rejected by others and sought revenge or retaliation for real or perceived wrongs done to them.
- They acquired firearms generally owned by a family member or someone they knew.
- They perceived that they were different from others and disliked those who were different.
- They needed recognition, and when they did not receive positive recognition, they sought negative recognition.
- They had a history of expressing anger or displaying minor acts of aggressive physical contact at school.
- They had a history of mental health treatment.
- They seemed to have trouble with their parents, though no apparent evidence of parental abuse existed.
- They were influenced by satanic or cult-type belief systems or philosophical works.
- They listened to songs that promote violence.
- They appeared to be loners, average students, and sloppy or unkempt in dress.
- They seemed to be influenced or used by other manipulative students to commit extreme acts of violence.
- They appeared isolated from others, seeking notoriety by attempting to "copycat" other previous school shootings but wanting to do it better than the last shooter.
- They had a propensity to dislike popular students or students who bully others.
- They expressed interest in previous killings.
- They felt powerless and, to this end, may have committed acts of violence to assert power over others.
- They openly expressed a desire to kill others.
- They exhibited no remorse after the killings.

Source: Federal Bureau of Investigation, *Law Enforcement Bulletin* 14 (Sept. 1999).

APPENDIX B

EXAMPLES OF MYTHS ABOUT SCHOOL VIOLENCE

1. *School violence is an epidemic.* Actually there has been a decline in school violence since 1993 as reported by the U.S. Department of Education, 1999 Annual Report on School Safety.
2. *School violence doesn't exist in my school.* Perhaps not in mass homicides, but in other forms violence exists in virtually every American schools as a reflection of the general violence in our communities.
3. *School violence is a security and police problem.* The reality is that law enforcement can't prevent school violence alone. In fact, local law enforcement agencies are generally not brought into a school until after a violent act has occurred.
4. *The solution is conflict resolution programs.* These are very important and generally successful programs, but they are not the entire solution.
5. *The solution is gun control.* New gun control laws may be of value, but will not assure that deaths at school will not occur, whether by shooting or other means.
6. *The problem is the media.* Shutting off a flow of information about death and violence through the media will only redirect the curious to other sources.
7. *The solution is crisis management programs.* Crisis management is not preventive. The finest crisis management plan, though crucial to write, does nothing to prevent the crisis in the first place.
8. *The solution is emergency law enforcement response.* Again this is only responsive, not preventive.
9. *He just snapped.* People don't just "snap." No one can identify a case where a normal person in normal circumstances committed an extreme act of violence.
10. *The solution lies in cookbook methods.* While written plans are important, and many programs have been successful in more than one setting, there is no one method of preventing violence in a community.

Source: Adapted from information presented at Federal Bureau of Investigation, National Center for the Analysis of Violent Crime Symposium, *The School Shooter: A Threat Assessment Perspective* (Leesburg, Virginia, July 12-16, 1999).

APPENDIX C

SOME STATISTICS ON SCHOOL VIOLENCE

- Fifty-seven percent of public elementary and secondary school principals reported that one or more incidents of crime/violence occurred in their schools during the 1996-1997 school year and were reported to law enforcement officials.
- Physical attacks or fights without a weapon led the list of reported crimes in public schools with about 190,000 such incidents reported for 1996-1997.
- Forty-one percent of elementary schools reported one or more criminal incidents to police, compared with fifty-five percent of middle schools and fifty-six percent of high schools during 1996-1997.

— National Center for Education Statistics, VIOLENCE AND DISCIPLINE PROBLEMS IN U.S. PUBLIC SCHOOLS: 1996-1997 (1998)

* * * * * *

- During the 1997-1998 academic school year 3,930 students were expelled for bringing firearms or explosives to school.
- Fifty-seven percent of the students expelled for bringing firearms or explosives to school in 1997-1998 were high school students, thirty-three percent were junior high, and ten percent were in elementary.

— U.S. Department of Education, REPORT ON STATE IMPLEMENTATION OF THE GUN FREE SCHOOLS ACT, SCHOOL YEAR: 1997-1998 (1999)

* * * * * *

- The percentage of students reporting street gang presence at school nearly doubled between 1989 and 1995, increasing from fifteen percent to twenty-eight percent.

— National Center for Education Statistics/Bureau of Justice Statistics, STUDENTS' REPORTS ON SCHOOL CRIME: 1989 AND 1995 (1998)

* * * * * *

- An estimated sixteen percent of all high school students in this country have been in one or more physical fights on school property in the course of a year.

— National Institute of Justice, VIOLENCE AMONG MIDDLE SCHOOL AND HIGH SCHOOL STUDENTS: ANALYSIS AND IMPLICATIONS FOR PREVENTION (1997)

* * * * * *

- Seventy-six percent of high school students and forty-six percent of middle school students say drugs are kept, used, or sold on school grounds.
- Twenty-eight percent of high school and nineteen percent of middle school teachers say students who appear drunk or high show up in their classes monthly or more frequently.

— Center on Addiction and Substance Abuse, CASA 1997 BACK TO SCHOOL SURVEY: MORE KIDS HAVE SEEN DRUG DEALS AT THEIR SCHOOLS THAN IN THEIR NEIGHBORHOODS (1997)

* * * * * *

- The percentage of elementary teachers who say students disrupt the classroom most of the time or fairly often has increased from forty-eight percent in 1984 to sixty-five percent in 1997.

— Phi Delta Kappan, THE FOURTH PHI DELTA KAPPA POLL OF TEACHERS' ATTITUDES TOWARD THE PUBLIC SCHOOLS (1997)

- Twenty-five percent of eighth and ninth grade students have witnessed threats to teachers.

  — Research Triangle Institute, Longitudinal Study of Selected School Districts (1997)

* * * * * *

- Seventy percent of all high school students say "unruly students distract them and undermine classes."

  — Public Agenda, Getting By (1997)

* * * * * *

- Every school day 13,076 public school students are suspended.

  — Children's Defense Fund, Every Day. . . (1997)

* * * * * *

- Teachers in 1996, for the first time, said that discipline is the main reason teachers leave the profession.

  — (Phi Delta Kappan, The Third Phi Delta Kappa Poll of Teachers' Attitudes Toward Public Schools (1996)

* * * * * *

- Nationwide, 4% of high school students missed at least 1 day of school in 30 days because they felt unsafe at school or when traveling to or from school. In addition, one-fifth of all high school students had carried a weapon (gun, knife, or club) on school property in the past month.

- 79.1% of high school students have had at least on drink of alcohol. 47.1% have used marijuana. 8.2% have used some form of cocaine. 17% have used other illegal drugs (PCP, ecstasy, speed, ice). 16% have used inhalants.

  — Youth Risk Behavior Surveillance — United States, 1997. Morbidity and Mortality Weekly Report, 47(SS-3), 1-89

* * * * * *

- About 3 million crimes occur on or near school property each year. A reported 135,000 students carry guns to school each day.

  — National Association of Secondary School Principals, Public School and Law Enforcement Agencies: Joining Forces for School Safety (1998)

* * * * * *

- According to a survey of educators at a National Association of Secondary School Principals convention, sixty-one percent have had to confiscate at least one firearm in the past two years; fifty percent require police intervention daily, weekly, or monthly, for violent acts occurring in their schools.

  — National Association of Secondary School Principals, Safety Issues Serious in Nation's Schools: Principals Taking Action (1997)

* * * * * *

- A study from the University of Michigan estimates that students carry 270,000 guns to school each day.

  — (Phi Delta Kappan, Standing Up to Violence (1995)

* * * * * *

- While shootings in schools have elevated concerns about firearms on school campuses, knives and razors are the weapons most likely to be carried by students.

  — (National Network of Violence Prevention Practitioners, Fact Sheet (1996)

* * * * * *

APPENDIX D

NSBA PROPOSED AMENDMENT TO FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT AND IMPLEMENTING REGULATIONS

The amending language would be included as one of the exceptions under 20 U.S.C. § 1232g(b):

> Release of education records; parental consent requirement; exceptions; compliance with judicial orders and subpoenas; audit and evaluation of federally-supported education programs; recordkeeping
>
> (1) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) of this section) of students without the written consent of their parents to any individual, agency, or organization, other than to the following —

Add 20 U.S.C. § 1232g(b)(1)(K):

> subject to the regulations of the Secretary, in connection with a good faith effort to address a potentially dangerous situation that threatens the safety and order of the school or the safety of one or more persons who are enrolled, employed or present at the school or are otherwise deemed in good faith to be at risk of injury, appropriate persons such as law enforcement personnel, juvenile justice authorities and social service/mental health personnel who have been determined by the educational institution to have legitimate interests in the safety of the school and other persons.

The implementing regulation should be amended as follows:

34 CFR 99.31 Under what conditions is prior consent not required to disclose information.

> (a) An educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by Sec. 99.30 if the disclosure meets one or more of the following conditions:

Add:

> (14) The disclosure is, subject to the requirements of Sec. 99.39, to law enforcement personnel, juvenile justice authorities, or social service/mental health personnel in a good

faith effort to address a potentially dangerous situation that threatens the safety and order of the school or the safety of one or more persons who are enrolled, employed or present at the school or are otherwise deemed in good faith to be at risk of injury.

Add:

34 C.F.R 99.39 What conditions apply to disclosure of information to law enforcement personnel, juvenile justice authorities, and social service/mental health personnel to prevent school violence.

(a) An educational agency or institution may disclose personally identifiable information from an education record to appropriate parties in connection with a good faith effort to prevent violence and to protect the safety of the student or other individuals.

(b) Nothing in this Act or this part shall prevent an educational agency or institution from:

(1) Including in the education records of a student appropriate information concerning the behavior of the student and disciplinary action taken against the student for conduct that posed a risk to the safety or well-being of that student, other students, or other persons;

(2) Disclosing appropriate information maintained under paragraph (b)(1) of this section to teachers or school officials within the agency or institution whom the agency or institution has determined have legitimate educational interests in the behavior of the student; or

(3) Disclosing appropriate information maintained under paragraph (b)(1) of this section to teachers and school officials in other schools who have been determined to have legitimate educational interests in the behavior of the student.

(c) Paragraphs (a) and (b) of this section will be strictly construed.

APPENDIX E

ZERO-TOLERANCE POLICIES

STATEMENT OF JULIE UNDERWOOD, GENERAL COUNSEL,
JULIE LEWIS, STAFF ATTORNEY
NATIONAL SCHOOL BOARDS ASSOCIATION
BEFORE THE
U.S. COMMISSION ON CIVIL RIGHTS
FEBRUARY 18, 2000

I. What is a zero-tolerance policy?

A zero-tolerance policy is generally defined as a school or district policy that mandates predetermined consequences or punishment for specific offenses, regardless of the circumstances or disciplinary history of the student involved.

II. Why adopt a zero-tolerance policy?

Schools generally consider zero-tolerance policies for students who make threats of violence or bring weapons to school. Such a policy might include expulsion or suspension of students who threaten to kill or who seriously assault others and, when appropriate, would quickly provide for psychological evaluation or intervention for these students. A clear and consistent message that threats of violence will not be tolerated may help to reduce the actual occurrence of violence.

III. History/Background

Although the term "zero-tolerance" is relatively recent in use, the concept is not. We have seen similar policies mandated by federal and state authorities throughout the 1990s.

A. Congressional mandate

In 1990, Congress enacted the Gun-Free School Zones Act (18 U.S.C. § 922(q)(1)(A)). This act prohibited the possession or discharge of a firearm in a school zone, with a few exceptions.

B. U.S. v. Lopez

A student, who was charged with carrying a concealed handgun into his high school, challenged the constitutionality of the Act. In *U.S. v. Lopez*, 115 S.Ct. 1624 (1995), the Supreme Court held that the Gun-Free School Zones Act of 1990, which made firearm possession in a school zone a federal crime, exceeded Congress' power under the Commerce Clause of the U.S. Constitution. The Court determined that possession of a firearm in a school zone did not involve an economic activity that substantially affected interstate commerce.

C. State legislation: gun & drug-free schools

Once the Supreme Court ruled that the congressional act was unconstitutional, many states began enacting their own legislation to require schools to expel students for serious offenses. For example, in Texas the "Safe Schools Chapter" (Tex. Educ. Code Sec. 37.007) was enacted. That statute requires the expulsion of a student for possession of a weapon (as defined in Texas code) on school property or while attending a school-sponsored or school-related activity on or off of school property. The statute also requires the expulsion of a student if he or she engages in conduct that contains the elements of the

offense of aggravated assault, sexual assault, arson, murder, capital murder, and/or criminal attempt to commit murder or capital murder, indecency with a child, or aggravated kidnapping. Finally, students who sell, give, deliver, possess, use or are under the influence of drugs, alcoholic beverages or abusable chemicals must be expelled.

D. 1994 Gun-Free Schools Act

In 1994, Congress enacted the Gun-Free Schools Act. This was the congressional response to *Lopez*. This time, Congress tied the act to their spending power. The Gun-Free Schools Act, 20 U.S.C. § 8921, requires that schools, as a condition to the receipt of Elementary and Secondary Education Act ("ESEA") funds, have a policy mandating a one-year expulsion for students who bring firearms to school.

IV. Who has zero-tolerance policies?

As reported in NCEAS Indicators of School Crime and Safety (1999):

> Most public schools reported having zero-tolerance policies that apply to serious student offenses. Nine out of 10 schools reported zero-tolerance policies for firearms (94%) and weapons other than firearms (91%). Eighty-seven percent of schools had zero-tolerance policies for alcohol and 88% had zero-tolerance policies for drugs. Most schools also had zero-tolerance policies for violence (79%) and tobacco possession violations (79%).

V. Legal pitfalls

A. Procedural Due Process

1. Any zero-tolerance policy must provide for adequate procedural due process commensurate with the severity of the designated consequence.

   James v. Unified Sch. Dist. No. 512, 899 F.Supp. 530 (D. Kan. 1995)

   Student was expelled for possession of firearm on school property. He sought temporary restraining order requiring school to permit him to take his final exams, or in the alternative, to be awarded grades earned through date of expulsion and to be allowed to attend school during the next school year. The court held that school's expulsion process comported with requirements of procedural due process.

2. The process, obviously, must also comply with state statutory requirements on student discipline.

   D.B. v. Clarke County Bd. of Educ., 469 S.E.2d 438 (Ga. Ct. App. 1996)

   Student appealed school board's decision to permanently expel her from school, which the Board of Education affirmed. The Court of Appeals held that: (1) permanent expulsion of student for disciplinary reasons did not conflict with or violate student's constitutional right to free public education or a compulsory school attendance statute, and (2) student's permanent expulsion for stabbing another student with knife did not violate local board policy or student's due process rights.

   Fuller v. Decatur Public Sch. Bd. of Educ., 78 F. Supp.2d 812 (C.D. Ill. 2000)

   High school students expelled for fighting in stands during football game joined their adult representatives in suing school board and members, seeking order reinstating students. The court held that: (1) student who voluntarily withdrew from school lacked standing to sue; (2) expulsion satisfied procedural due process requirements; (3) equal protection rights of students were not violated; (4) board had not relied upon zero-tolerance to violence position in reaching

expulsion decision; and (5) students' memberships in recognized gangs precluded challenge to disciplinary rule prohibiting gang activity on grounds that definition of "gangs" was unconstitutionally vague.

3. Further, the process must comply with federal and state authority regarding procedures required to discipline children with disabilities.

Miller v. Board of Educ., 690 A.2d 557 (Md. Ct. App. 1997)

Parents sought review of state board of education decision affirming student's expulsion for possession and use of controlled, dangerous substance on school grounds. The Court of Appeals held that: (1) student was not entitled to special statutory procedures for students with disabilities absent previous finding that student was disabled; (2) statute prohibiting use of statements made by student seeking drug counseling was inapplicable; (3) expulsion was supported by substantial evidence; and (4) student's due process rights were not violated.

B. Substantive Constitutional Issues

1. No Infringement of Constitutional Rights — Especially where the misconduct involves some form of speech, the policy should define the offense to exclude expression protected by the First Amendment. Vague and overly broad policies are more vulnerable to court challenge. In addition, schools must ensure that the punishment is not "shocking to the conscience."

London v. Dewitt Public Schools, 194 F.3d 873 (8th Cir. 1999)

Middle school student and his mother sued school superintendent, teacher, and other school officials, alleging substantive and procedural due process violations in connection with student's suspension and expulsion following altercation with teacher. The Court of Appeals held that: (1) there was no substantive due process violation in connection with student's altercation with teacher; (2) student failed to establish procedural due process violations in connection with his suspension and expulsion; and (3) plaintiffs failed to support claim that school district discriminated with respect to staffing in its schools.

2. Loss of Discretion — Schools should ensure that the designated consequences are consistent with substantive due process considerations. Basically the rule and punishment must be reasonable. School districts should be certain that their policies are drafted well enough so that petty offenses are not subject to punishment. Zero-tolerance policies relinquish the boards' power to exercise discretion. As such districts are completely reliant on the reasonable and sound drafting of the policy.

Kolesnick v. Omaha Pub. Sch. Dist., 558 N.W.2d 807 (Neb. 1997)

Student sought judicial review of his expulsion. The trial court reduced student's expulsion from two semesters to one semester. School district appealed. The Nebraska Supreme Court held that: (1) expulsion of student for knowing possession of knife on school property was rationally related to school district's interest in protecting other students and staff from violence; (2) no shocking disparity existed between student's sentence and his offense; (3) district's adoption of code of student conduct was neither arbitrary nor capricious; (4) district's expulsion of student from school for two semesters was neither arbitrary nor capricious.

3. Clear Definitions—Because punishments are "automatic" under zero-tolerance policies, it is imperative that

clear definitions be included to ensure notice of prohibited conduct and that policies do not unintentionally sweep in behavior that the school board does not wish cover.

Giles v. Brookville Area Sch. Dist., 669 A.2d 1079 (Pa. Commw. Ct. 1995)

Student appealed school board's expulsion of student for violating school district's drug policy. The court held that: (1) school board's determination that its policy prohibiting sale of drugs on school property also proscribed agreement on school property for sale of marijuana, with actual exchange of money for drugs off school property, was not abuse of discretion, and (2) one year expulsion of student was proper sanction for selling marijuana.

C. Fair and Consistent Enforcement

1. As with any disciplinary policy, fair and consistent enforcement of zero-tolerance policies is essential if they are to be respected by students and the community at large. The purpose of zero-tolerance policies is to provide identical discipline for circumscribed offenses; thus there is no room for inconsistent administration of punishments. However, the possibility of inconsistent enforcement still exists in the area of charging students with disciplinary violations.

2. If discrepancies in enforcement become apparent, the "get tough" message is nullified, and the district is open to charges of discriminatory application.

Dornes v. Lindsey, 18 F.Supp.2d 1086 (C.D. Cal. 1998)

Middle school student sued school principal, alleging civil rights, due process and equal protection violations under federal and state law arising out of procedures followed in connection with her expulsion from school. On principal's motion for summary judgment, the court held that: (1) unsupported statement that student was only African-American student in her school was insufficient to support claim of equal protection violation; (2) student received all process she was due in disciplinary proceedings; (3) principal acted within scope of her statutory authority in investigating charges and recommending student's expulsion.

Smith v. Severn, 129 F.3d 419 (7th Cir. 1997)

Parent brought state court action on behalf of high school student against school district and principal, alleging that student's three-day suspension from school violated student's rights to due process and equal protection. The student was suspended for violating rules regarding the homecoming lip sync contest, disorderly conduct, bringing a chainsaw to school, insubordination, and gang activity. The Court of Appeals held that: (1) suspension did not violate due process, and (2) suspension did not violate equal protection.

VI. Are Zero Tolerance Policies Effective?

In Baltimore, Maryland, an aggressive zero-tolerance law adopted last spring by the school board is credited with producing a 67% decline in arrests and a 31% decline in school crime in September and October 1999, compared with the same time a year earlier (See "Decatur Furor Sparks Wider Policy Debate," EDUCATION WEEK, November 24, 1999, by Robert C. Johnson).

In Texas, a survey found that from 1993 to 1998, the percentage of teachers who viewed assaults on students as a "significant problem" dropped from 53 to 31 (See "The Fight's Not Over," THE NEW REPUBLIC, December 6, 1999). It is during this time that Texas mandated expulsion of students for drugs and weapons on school grounds and at school events.

VII. Recommendations

- A zero-tolerance policy must be integrated into a comprehensive school safety plan that focuses on a positive school climate and is balanced with prevention, intervention and enforcement strategies. Discipline policies, in general, are an opportunity to teach students about their rights and responsibilities to themselves and others. It is important that all school rules are reasonable and are a part of the learning process.
- Reasonable zero-tolerance policies specify what types of conduct will result in the automatic penalty of suspension or expulsion. For lesser violations, outlined aggravating and mitigating circumstances should be taken into consideration. Finally, all due process procedures must be followed, and statutory and constitutional rights protected.
- Schools should establish reasonable zero-tolerance policies for students who present a danger to others. Students who pose a threat must be dealt with under school policies and this information should be communicated to local law enforcement to assist in preventing violence in the community. It is also important to establish an assistance program to teach students how to handle substance abuse, violence, anger management, and bullying. Schools should work with their community to create partnerships with social service organizations and other service-oriented groups that can provide resources to troubled students.
- Such a policy might include expulsion or suspension of students who threaten others and, when appropriate, quickly provide psychological evaluation or intervention for these students. We, as members of the school community, must recognize and convey to students, that threats are a crime. They must be dealt with accordingly. When adults take threats seriously, students will realize that threatening others is not acceptable behavior.
- School policies should be developed with and distributed to school personnel, students, parents and community members. Inviting input from the community and parents regarding acceptable behavior and punishment reduces resistance to such policies. If the community has ownership in the policy, it is more likely to support the policy during difficult times.
- Schools should not tolerate behavior that would be punished as illegal off campus. Schools should not be a haven for misbehavior. Schools should be a place where students learn civic responsibility and where appropriate behavior is expected. It is important to keep schools the safest place for children in America (National Center for Education Statistics, VIOLENCE AND DISCIPLINE PROBLEMS IN U.S. PUBLIC SCHOOLS: 1996-1997 (1998)).

APPENDIX F

EARLY WARNING SIGNS

- Social withdrawal.
- Excessive feelings of isolation or being alone.
- Excessive feelings of rejection.
- Being a victim of violence.
- Feelings of being picked on and persecuted.
- Low school interest and poor academic performance.
- Expression of violence in writing and drawings.
- Uncontrolled anger.
- Patterns of impulsive and chronic hitting, intimidating, and bullying behaviors.
- History of discipline problems.
- History of violent and aggressive behavior.
- Intolerance for differences and prejudicial attitudes.
- Drug use and alcohol use.
- Affiliation with gangs.
- Inappropriate access to, possession of, and use of firearms.
- Serious threats of violence (also an imminent warning sign).

Source: U.S. Department of Education, *Safeguarding Our Children: An Action Guide* 17 (2000).

APPENDIX G

Early Intervention Strategies

INTERVENTION STRATEGY	BRIEF DESCRIPTIONS
Accommodations and modifications	Changing instructional practices, the ways students demonstrate mastery, and the way students input information to help students with disabilities or learning differences achieve and demonstrate academic mastery (e.g., oral responses versus written essays, tape recordings of text and information).
Alternative educational strategies	Alternative strategies provided for students who for some reason are not succeeding in the traditional setting.
Alternative times—day and night school	Flexible schedules for students who, for various reasons, may not be able to attend school during traditional school hours.
Anger management training	Methods for teaching socially appropriate ways to deal with anger.
Behavioral intervention	A group of strategies designed to increase positive behaviors and decrease maladaptive behaviors by manipulating environmental conditions that either precede or follow the student's behavior.
Behavioral support plan	A plan designed to teach alternative replacement behaviors in environments and through adult interactions that are adapted and made more responsive to the student's individual needs.
Contingency contracting	A behavioral contract between a student and all involved adults. The contract specifies the expected behaviors and the consequences for performing or not performing them.
Cognitive behavioral interventions and training	An approach to behavior change that includes changing the way a person thinks or feels about a situation. For example, teaching children that they have the problem-solving skills necessary to resolve social problems in a nonaggressive way will usually prevent them from dealing inappropriately with others in social situations (i.e., using aggression).
Differential reinforcement	A method for decreasing inappropriate behaviors by rewarding alternative behaviors (e.g., decreasing out-of-seat behavior by rewarding the student for remaining in his or her seat).
Drop-out prevention	Interventions designed to identify students at risk for dropping out of school and to provide them with the services and supports necessary to help them successfully complete school.
Drop-out reentry program	Interventions and transition planning to ensure a student's success when returning to school after dropping out.
Environmental modifications	Modifying the class and school environment to respond to unique learning, behavioral, or emotional needs of students.
Extended day programs	Structured after-school programs designed to offer student supervision. These programs can focus on athletics, academics, hobbies, or other interests.
Extinction procedures	Ignoring a behavior that is reinforced by attention. For example, if a student talks out to get the teacher's attention, an extinction procedure would call for ignoring inappropriate talk-outs and reinforcing appropriate contributions to the group discussion (i.e., raising a hand and waiting for a turn to speak).
Functional communication training	Teaching students alternative, adaptive ways to communicate their needs to others, such as through a brief verbalization, hand gesture, or signal (e.g., flipping a card over, which signals to the teacher the student's need for assistance).
Goal-oriented therapeutic counseling	Services provided by trained school counselors, social workers, or psychologists to help a student or group of students address behaviors and personal or social problems.
Group and family counseling	Counseling provided by a trained individual to help a person or persons work through a problem.
Mentoring	An individualized approach to providing a caring connection and a positive role model for a child. Mentors spend time with children, usually doing nonacademic-type tasks.

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INTERVENTION STRATEGY	BRIEF DESCRIPTIONS
Positive behavioral interventions	Interventions designed to build on a student's strengths and increase the frequency of his or her adaptive responses while modifying the environment and adult responses to support the student's learning and use of adaptive responses.
Response cost	Taking away something positive for inappropriate behavior. Staying in during recess to complete a missed homework assignment is an example of response cost.
Reward system	Rewarding students for appropriate behavior. Rewards can be social (a smile), an activity (time to read a novel), or tangible (candy or points on a token system). Students can earn rewards for themselves or for a group, and the rewards can be delivered by an adult, peer, or others.
Self-management	Teaching students to be aware of their behavior in such a way that they are able to identify its occurrence or nonoccurrence, measure its occurrence, and evaluate whether the behavior is improving, remaining the same, or getting worse.
Shadowing older students	A plan where a student "shadows" a more senior student. Learning through modeling is often effective for transitions from one school to another.
Social problem-solving instruction	Teaching students to use an effective process to solve social problems fairly and without aggression.
Time-away	Giving the student permission to briefly leave a learning activity or take a break. This is a coping strategy reinforced and encouraged by the teacher.
Time-out	Removing the student from a situation that is rewarding inappropriate behavior. For example, if a student's anger seems to be fueled by the cheers of his or her peers, the adult may ask the student to go to a place where peer attention is not available.
Token economies	A system by which students earn points (tokens) for appropriate behavior. Points can later be exchanged for reinforcement (social rewards, activities, or something more tangible).
Transition programs	Interventions specifically designed to identify transition needs, teach skills, and provide the support necessary for a child's success in a new environment.
Tutoring	Intensive academic instruction provided by a teacher or other skilled person.

Source: U.S. Department of Education, *Safeguarding Our Children: An Action Guide* 28-29 (2000).

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APPENDIX H

RESOURCES AND E-SOURCES ON SCHOOL SAFETY

PRIVATE ORGANIZATIONS

American Bar Association
Division for Public Education
541 N. Fairbanks Court
Chicago, IL 60611
312-988-5735
www.abanet.org/publiced/youth/youth.html

American Federation of Teachers
555 New Jersey Avenue, N.W.
Washington, DC 20001
202-879-4400
www.aft.org

American School Counselors Association
801 North Fairfax Street, Suite 310
Alexandria, VA 22314
Phone: (703) 683-2722,
Fax (703) 683-1619
1-800-306-4722
www.schoolcounselor.org

Black Psychiatrists of America
866 Carlton Avenue
Oakland, CA 94610
415-834-7103

Boys and Girls Clubs of America
1230 West Peachtree Street, N.W.
Atlanta, GA 30309
404-815-5765
www.bgca.org

Center for Effective Collaboration and Practice
1000 Thomas Jefferson Street, N.W., Suite 400
Washington, DC 20007
202-944-5400 or 1-888-457-1551
www.air-dc.org/cecp/

Children's Defense Fund
25 E Street, N.W.
Washington, DC 20001
202-628-8787
www.childrensdefense.org

Community Mental Health Council
Attn: Dr. Carl Bell
8704 South Constance Street
Chicago, IL 60617
773-734-4033 x204

Community Policing Consortium
1726 M Street, N.W.
Washington, DC 20036
Publications: 800-421-6770
www.communitypolicing.org

Federation of Families for Children's Mental Health
1021 Prince Street
Alexandria, VA 22314-2971
703-684-7710

Hamilton Fish National Institute on School and Community Violence
1925 North Lynn Street, Suite 305
Rosslyn, VA 22209
Phone: 703-527-4217
Fax: 703-527-8741
www.hamfish.org

Hispano/Latino Community Prevention Network
601 East Montecito Street
P.O. Box 42506
Santa Barbara, CA 93140
508-580-7856

National Association of Black Social Workers
8436 West McNichols
Detroit, MI 48221

National Association of Elementary School Principals
1615 Duke Street
Alexandria, VA 22314-3483
703-684-3345
www.naesp.org

National Association of Secondary School Principals
1904 Association Drive
Reston, VA 22091
703-860-0200
www.nassp.org

National Association of State Mental Health Program Directors/Commissioners
66 Canal Center Plaza, Suite 302
Alexandria, VA 22314
703-739-9333

National Black Child Development Institute
1023 15th Street, N.W., Suite 251
Washington, DC 20005
202-434-5688

National Center for Juvenile Justice
710 Fifth Avenue
Pittsburgh, PA 15219-3000
412-227-6950
www.ncjj.org

National Coalition of Hispanic Health and Human Services Organizations
1501 16th Street, N.W.
Washington, DC 20036-1401
202-797-4321

National Education Association
1201 16th Street, N.W.
Washington, DC 20036
202-833-4000
www.nea.org

National Hispanic/Latino Community Prevention Network
Route 1, Box 204
Espanola, NM 87532
505-747-188

National Maternal and Child Health Clearinghouse
www.nmchc.org

National Mental Health Association
1021 Prince Street
Alexandria, VA 22314-2971
703-684-7722

NOVA
National Organization for Victim Assistance
1757 Park Road, N.W.
Washington, DC 20010
202-232-6682
www.try-nova.org

National PTA
330 North Wabash Avenue
Suite 2100
Chicago, IL 60611-3690
800-307-4PTA
www.pta.org

National Resource Center for Safe Schools
101 S.W. Main, Suite 500
Portland, OR 97204
1-800-268-2275 or 503-275-0131
www.safetyzone.org

National School Safety Center
141 Duesenberg Drive, Suite 11
Westlake Village, CA 91362
Phone: 805-373-9977
Fax: 805-373-9277
www.nssc1.org

Organization of Latino Social Workers
2319 South Damen Avenue
Chicago, IL 60608
773-579-0832

Partnerships Against Violence Network
John Gladstone
301-504-5462
jgladsto@nalusda.gov
www.pavnet.org

Regional Education Laboratories
www.nwrel.org/national

Zero to Three, National Center for Infants, Toddlers, and Families
734 15th Street, N.W.
10th Floor
Washington, DC 20005-1013
202-638-0840

UNIVERSITY CENTERS

Center for Positive Behavior Intervention and Support
1235 University of Oregon
Eugene, OR 97403-1235
541-346-5311
www.stpreos.uoregon.edu

Center for the Study and Prevention of Violence
Institute of Behavioral Science
University of Colorado at Boulder
900 28th Street, Suite 107
Campus Box 442
Boulder, CO 80309
303-492-1032
www.colorado.edu/cspv/

National Center for the Prevention of School Violence
20 Enterprise Street, Suite 2
Raleigh, NC 27607-7375
1-800-299-6054 or 919-515-9397
www.ncsu.edu/cpsv

National Technical Assistance Center for Children's Mental Health
Georgetown University Child Development Center
3307 M Street, N.W.
Washington, DC 20007
202-687-5000

School Mental Health Project/Center for Mental Health in Schools (UCLA)
smhp.psych.ucla.edu

GOVERNMENT AGENCIES

Centers for Disease Control and Prevention, Division of Adolescent and School Health (DASH)
www.cdc.gov/nccdphp/dash

Centers for Disease Control and Prevention, Division of Violence Prevention
www.cdc.gov/ncipc/dvp/dvp.htm

Center for Mental Health Services (CMHS)
www.samhsa.gov/cmhs

Center for Substance Abuse Prevention (CSAP)
www.samhsa.gov/csap/index.htm

Health Resources and Services Administration, Bureau of Primary Health Care (BPHC)
www.bphc.hrsa.dhhs.gov

National Center for Education Statistics
555 New Jersey Avenue N.W.
Washington, DC 20208
800-424-1616 or 202-219-1828
www.nces.ed.gov

National Institute of Justice
www.ojp.usdoj.gov/nij

National Institute of Mental Health (NIMH)
www.nimh.nih.gov

Office of Community Oriented Policing Services (COPS)
www.usdoj.gov/cops

Office of Correctional Education (OCE)
www.ed.gov/offices/OVAE/OCE

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Office of Juvenile Justice and
Delinquency Prevention
810 Seventh Street, N.W.
Washington, DC 20531
202-307-5929
www.ojjdp.ncjrs.org

Safe and Drug-Free Schools Program
www.ed.gov/offices/OESE/SDFS

Substance Abuse and Mental Services Administration (SAMHSA)
www.samhsa.gov

U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202
www.ed.gov

U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201
www.hhs.gov

U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001
www.usdoj.gov

PUBLICATIONS

Annual Report on School Safety, 1998
www.ed.gov/pubs/annschoolrept98/intro.html

Blueprints for Violence Prevention
www.colo.edu/cspv/blueprints

Creating Safe and Drug-Free Schools: An Action Guide
www.ed.gov/offices/OESE/SDFS/actguid/index.html

Early Warning, Timely Response: A Guide to Safe Schools
www.ed.gov/offices/OSERS/OSEP/earlywrn.html

Indicators of School Crime and Safety, 1999
www.nces.ed.gov/pubs99/1999057.pdf

Manual to Combat Truancy
www.ed.gov/pubs/Truancy/

Mentoring: A Proven Delinquency Prevention Strategy
www.ncjrs.org/pdffiles/164834.pdf

National Longitudinal Study of Adolescent Health (Add Health)
www.cpc.unc.edu/addhealth/

Preventing Crime: What Works, What Doesn't, What's Promising
www.ncjrs.org/works/

Safe and Smart: Making After-School Hours Work for Kids
www.ed.gov/pubs/SafeandSmart/

Safe Drug-free and Effective Schools for all Students: What Works
www.air-dc.org/cecp/whatworks/enter.htm

Safeguarding Our Children: An Action Guide
www.ed.gov/offices/OSERS/OSEP/ActionGuide/

School Shooter: A Threat Assessment Perspective (Sept. 2000) reporting the conclusions of the FBI inquiries is available at http://www.fbi.gov/library/school/school2.pdf

Sharing Information: A Guide to the Family Educational Rights and Privacy Act and Participation in Juvenile Justice Programs
www.ncjrs.org/jjgen.htm

Source: Julie Underwood, General Counsel, & Julie Lewis, Staff Attorney, National School Boards Association, Alexandria, Virginia

APPENDIX I

MODEL INTERAGENCY AGREEMENT

This Agreement made and entered into as of the date set forth below, by and between the

[List Agencies Here]

WITNESSETH:

WHEREAS, all parties are committed to providing appropriate programs and services to prevent children from becoming at risk and to intervene with children already involved in the juvenile justice system; and

WHEREAS, the parties to this agreement desire a maximum degree of long range cooperation and administrative planning in order to provide for the safety and security of the community and its children; and

WHEREAS, all parties are committed to improving services to children in the juvenile justice system through sharing information, eliminating duplication of services and coordinating efforts; and

WHEREAS, all parties mutually agree that sharing resources, where feasible, and in particular, training efforts, may result in improved coordination; and

WHEREAS, it is the understanding by all parties that certain roles in serving children and youth are required by law, and that these laws serve as the foundation for defining the role and responsibility of each participating agency; and

WHEREAS, all parties mutually agree that all obligations stated or implied in this agreement shall be interpreted in light of, and consistent with governing State and Federal laws;

NOW, THEREFORE in consideration of the following agreements, the parties do hereby convenant and agree to do the following:

EACH OF THE PARTIES AGREE TO:

1. Promote a coordinated effort among agencies and staff to achieve maximum public safety with the goal of reducing juvenile crime.

2. Participate in interagency planning meetings, as appropriate.

3. Assign staff, as appropriate, to participate in a consolidated case management system, reentry into school of children returning from detention or commitment program, and other information-sharing activities to assess and develop plans for at-risk youth and those involved in the juvenile justice system.

4. If applicable, participate in the planning and implementation of a juvenile assessment, receiving, and truancy center to the extent feasible for each party.

5. Jointly plan, and/or provide information and access to, training opportunities, when feasible.

6. Develop internal policies and cooperative procedures, as needed, to implement this agreement to the maximum extent possible.

7. Comply with relevant State and Federal law and other applicable local rules which relate to records use, security, dissemination, and retention/destruction.

THE JUVENILE COURT AGREES TO:

1. Notify the Superintendent, or designee, of the name and address of any student found to have committed a delinquent act or who has had adjudication withheld. Notification shall be within 48 hours and shall include the specific delinquent act found to have been committed or for which adjudication was withheld, or the specific felony for which the student was found guilty.

2. Identify sanctions for youth who are in contempt of court due to violation of a court order on school attendance.

3. Upon request by the school district, share dispositional information with the Superintendent or his designee regarding juveniles who are students within the educational system for purposes of assessment, placement, or security of persons and property.

4. Consider the issuance of court orders necessary to promote the goals of this agreement, particularly information sharing between the agencies involved.

5. Develop, in corporation with School and law enforcement, and local service providers, a written plan to determine the procedures to take when a child is identified as being truant from school.

6. Develop appropriate internal written policies to insure that confidential education record information is disseminated only to appropriate personnel.

THE DEPARTMENT OF PROBATION AGREES TO:

1. Notify the Sheriff and Superintendent of Schools or designees, immediately upon learning of the move or other relocation of a juvenile offender into, out of, or within the jurisdiction, who has been adjudicated, or had adjudication withheld for a violent misdemeanor or felony.

2. Share dispositional, placement, and case management information with other agencies as appropriate for purposes of assessment, placement, and enhanced supervision of juveniles.

3. Develop, in cooperation with School and law enforcement, and local service providers, a written plan to determine the procedures to take when a child is identified as being truant from school.

4. Develop appropriate internal written policies to insure that confidential education record information is disseminated only to appropriate personnel.

THE DEPARTMENT OF HEALTH [OR SOCIAL SERVICES OR SIMILAR AGENCY] AGREES TO:

1. Provide notice to the Superintendent of Schools or a designee, immediately upon the initiation of planning efforts with private nonprofit entities or governmental entities, including agencies part of this Agreement, which could result in the creation, relocation, or expansion of youth services programs and which may impact the school district.

2. Develop, in cooperation with School and law enforcement, and local service providers, a written plan to determine the procedures to take when a child is identified as being truant from school.

3. Develop appropriate internal written policies to insure that confidential education record information is disseminated only to appropriate personnel.

THE SCHOOL SUPERINTENDENT AGREES TO:

1. Notify, within 24 hours, the child's principal of juveniles arrested for crimes of violence or violation of law upon receipt of such information from law enforcement or the court system or probation department. The principal, within 24 hours of such notice, shall provide such information to student service personnel, the school resource officer, the student assistance coordinator, and the student's immediate teachers.

2. Designate the contact person to be responsible for receiving juvenile arrest information and inform all parties as to the Superintendent's designee.

3. Request criminal history information only for the purposes of assessment, placement, or security of persons and property.

4. Designate the contact person(s) to be responsible for receiving confidential criminal history information and inform all parties as to the names of those individuals.

5. Develop appropriate internal written policies to insure that confidential criminal history information is disseminated only to appropriate school personnel.

6. Share information on student achievement, and behavioral and attendance history on juvenile offenders and juveniles at risk of becoming offenders with the parties to this agreement, for the purpose of assessment and treatment.

7. Develop, in cooperation with School and law enforcement, and local service providers, a written plan to determine the procedures to take when a child is identified as being truant from school.

8. Notify the appropriate law enforcement agency when an adult or a student commits any of the following offenses on school property, on school sponsored transportation, or at school sponsored activities: Homicide; Sexual Battery; Armed Robbery; Aggravated Battery on a teacher or other school personnel; Kidnapping or abduction; Arson; Possession, use, or sale of any firearm; Possession, use, or sale of any explosive device; Possession, use, or sale of any controlled substance; or any act that compromises school or community safety. Additionally, if the offense involves a victim, school officials shall notify the victim and the victim's parents of the offense and the victim's right to press charges against the offender. School personnel shall cooperate in any investigation or other proceedings leading to the victim's exercise of right as provided by law.

EACH LAW ENFORCEMENT CHIEF [OR SHERIFF] AGREES TO:

1. Notify the Superintendent, or designee, of the name and address of any student arrested for crimes. Notification shall be within 24 hours and shall include the specific delinquent which led to the arrest.

2. Upon request by the school district, share summary criminal history information with the Superintendent or his designee regarding juveniles who are students within the educational system for purposes of assessment, placement, or security of persons and property.

3. Develop appropriate internal written policies to insure that confidential education record information is disseminated only to appropriate personnel.

4. Develop, in cooperation with School and law enforcement, and local service providers, a written plan to determine the procedures to take when a child is identified as being truant from school.

5. Notify the Superintendent, or designee, of the name and address of any employee of the school district who is charged with a felony or with a misdemeanor involving the abuse of a minor child or the sale or possession of a controlled substance. Notification shall be within 24 hours and shall include the specific act which led to the arrest.

THE STATE ATTORNEY [OR DISTRICT ATTORNEY] AGREES TO:

1. Notify the Superintendent or designee when a student is formally charged with a felony, or with a delinquent act which would be a felony if committed by an adult in a timely manner.

2. Provide copies to the Superintendent or designee of all Petitions, Informations, or No File decisions, as to students for violent misdemeanors and felonies or delinquent acts which would be a felony if committed by an adult in a timely manner.

ADMINISTRATIVE

TERM OF AGREEMENT:

This agreement shall be in effect as of the date the agreement is signed by the majority of the initiating parties and shall renew automatically unless otherwise modified. All parties are signatory to this agreement when signing or when the majority of the initiating parties signs, whichever is later. Any party signatory to this agreement may terminate participation upon thirty days notice to all other signed parties to the agreement.

AGENCY REPRESENTATIVES:

The parties will develop procedures for ongoing meetings and will, at least annually review and if necessary, recommend any changes.

MODIFICATION OF AGREEMENT:

Modification of this agreement shall be made only by consent of the majority of the initiating parties. Such shall be made with the same formalities as were followed in this agreement and shall include a written document setting forth the modifications, signed by all the consenting parties.

OTHER INTERAGENCY AGREEMENTS:

All parties to this agreement acknowledge that this agreement does not preclude or preempt each of the agencies individually entering into an agreement with one or more parties to this agreement. Such agreements shall not nullify the force and effect of this agreement. This agreement does not remove any other obligations imposed by law to share information with other agencies.

SIGNATURES OF PARTIES TO THIS AGREEMENT:

Upon signing this agreement, the original agreement and signature shall be filed with the clerk of the court and placed in the public records of the jurisdiction. A certified copy of the agreement and the signatures shall be provided to each signatory to the agreement.

Cautions for Model Interagency Agreement

As educators and juvenile justice professionals work on developing interagency information sharing agreements, they should ensure that the laws of their State permit information and record sharing. Further, the interagency agreement should contain a clause prohibiting the release of information to third parties not covered by the agreement.

Source: U.S. Department of Justice and U.S. Department of Education, *Sharing Information: A Guide to the Family Educational Rights and Privacy Act and Participation in Juvenile Justice Programs* (1997).

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APPENDIX J

CALIFORNIA STATUTORY PROVISIONS RELATED TO SCHOOL SAFETY PLANS

Requirements of California Education Code Section 35294.2	Responsibilities of the School
Assessment of current status of crime	Review current CSSA reports or school law enforcement statistics.
Child abuse reporting procedures pursuant to Penal Code 11164 *et seq.*	Insert into school safety plan procedures for notifying appropriate authorities.
Procedures for disasters and emergencies	Obtain district disaster plans and include in the school safety plan.
Policies related to suspension, expulsion or mandatory expulsion, and other school-designated serious acts that would merit suspension or expulsion	Obtain district policy on student discipline and include in the school safety plan.
Notification to teachers pursuant to Educ. Code 49079	Obtain district procedures for notifying teachers and include in the school safety plan.
Policy against sexual harassment (Educ. Code 212.6[b])	Obtain district policy and include in the school safety plan.
Provisions of any school-wide dress code (See Educ. Code 35183)	School or district policies should be included in the school safety plan.
Safe ingress and egress of pupils, parents, and school-employees to and from school	Include in the school safety plan any school-developed strategies or safe corridor maps for students and staff.
Safe and orderly school environment	Develop a school safety plan using existing resources.
Rules and procedures pursuant to Educ. Code 35291 and Educ. Code 35291.5	Update school rules and include in the school safety plan.
Hold a public meeting (Education Code 35294.8[g])	Announce and conduct a meeting at the school site prior to submitting the school safety plan to the district.

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Other Code References Related to School Safety	Requirement for Schools
Educ. Code 35294.2(a)(1); Penal Code 628.2	Assess current statistics on crime committed at school campuses and at school-related functions.
Educ. Code 35294.2(a)(2)	Identify appropriate strategies and programs.
Educ. Code 35294.1(b)(2) and (3); Educ. Code 52852	Include among the safety planning committee members the principal, the teachers' representative, a parent, a classified employee, and a member of a law enforcement agency.
Educ. Code 35294.2(a)(2)	Address school procedures for complying with existing laws related to school safety.
Educ. Code 35294.2(a)(2)(A); Penal Code 11165.7(a), 11165.14, 11166	Report child abuse.
Educ. Code 35294.2(a)(2)(B), Educ. Code 35295-35297; Govt Code 8607, Govt Code 3100	Establish procedures in the event of a disaster and emergency.
Educ. Code 48900, Educ. Code 48915	Expel or suspend students who commit serious offenses.
Educ. Code 49079	Establish procedures to notify teachers of dangerous pupils.
Educ. Code 35294.2(a)(2)(E), Educ. Code 212.6(b)	Establish a policy against sexual harassment.
Educ. Code 35294.2(a)(2)(F), Educ. Code 35183(a)(2)	Establish a dress code policy that prohibits students from wearing gang-related apparel. (Wearing gang-related apparel is not considered a protected form of speech pursuant to Educ. Code 48950.)
Educ. Code 35294.2(a)(2)(G)	Provide for safe ingress and egress of students, parents, and employees to and from school.
Educ. Code 35294.2(a)(2)(H)	Provide a safe and orderly school environment.
Educ. Code 35294.2(a)(2) I), Educ. Code 35291, Educ. Code 35291.5	Establish rules and procedures on school discipline.
Educ. Code 35294.8(b)	Hold a public meeting to allow members of the public to express opinions about the safety plan before the plan is adopted by the school.
Educ. Code 35294.2(e)	Amend or evaluate the plan once a year.
Educ. Code 35294.2(e)	Make all safety-related plans readily available for inspection by the public and keep the plans updated.

Source: Adapted from a document created by the Los Angeles County Office of Education, Attendance and Administrative Services, Division of Educational Support Services.

APPENDIX K

PRINCIPLES FOR DEVELOPING A REFERRAL PROCESS

The process of making a referral to the Student Support Team should enable students and staff to access help quickly. In developing the team's referral process, keep in mind the following seven principles:

- **Simplify requests for urgent assistance.** Many school systems and community agencies have complex legalistic referral systems with timelines and waiting lists. Children who may be exhibiting early warning signs and are potentially at risk of endangering themselves or others cannot be placed on a waiting list. Referral forms must communicate the urgency of the referral to the team. Teams should consider adding a box on the standard referral form to indicate when the referral is about a child who is exhibiting early warning signs for violence. Alternatively, a separate referral form might be developed that is copied onto brightly colored paper and used only for referrals regarding a child who is exhibiting early warning signs. Consideration should also be given to listing the imminent warning signs on the referral form, with instructions that direct the person to go to the principal immediately if the concerns match imminent warning signs rather than early warning signs.

- **Give scheduling preference to urgent referrals.** The Student Support Team must respond by convening as soon as possible following the receipt of a referral regarding a child exhibiting early warning signs. These referrals cannot be pushed to an agenda in the future. In some cases, the Student Support Team will need to "bump" a nonurgent referral from its agenda to review the referral as soon as possible. In other situations, the team will need to convene at a day or time other than its regular schedule.

- **Encourage informal consultations.** Sometimes teachers, staff, students, and parents hesitate to refer a child they think may be exhibiting early warning signs. Their hesitation may stem from the formal nature of this action, the insecurities they feel about identifying early warning signs, and how they might feel if their referral is deemed unfounded. That's why safe schools encourage informal consultations, because they offer another option to share concerns about individual children.

- **Inform and listen to parents when early warning signs are observed.** Parents should be involved as soon as possible. Parents need to be encouraged to meet with the Student Support Team when a referral has been made about their child possibly exhibiting early warning signs.

- **Make interventions available as soon as possible following referrals.** Too frequently, interventions are not available quickly. Safe and effective schools build mechanisms into their referral process that ensure that the Student Support Team convenes promptly, involves parents immediately, and, within the first meeting, decides what actions or steps each person will take initially to support the child.

- **Maintain confidentiality and parents' rights to privacy.** In responding to a referral, Student Support Teams may determine with the family that agencies outside of the school need to become involved. The Family Educational Rights and Privacy Act (FERPA), a federal law that addresses the privacy of education records, must be observed in all referrals to or sharing of information with other community agencies. In particular, parent-approved interagency communication should be kept confidential. FERPA generally requires parental consent

before personally identifiable information about a student is shared with other agencies. FERPA does allow disclosure (without parental consent) to appropriate parties such as medical or emergency personnel in the case of an acute emergency (imminent danger).

- **Circumvent the referral process in cases of imminent warning signs.** When a student is believed to pose imminent danger, safety must always be the foremost consideration. In these situations, the referral process is circumvented. Action must be taken immediately by school authorities and law enforcement personnel. Principals may find it helpful to seek consultation from the Student Support Team while taking immediate action and notifying the student's parents of the school's concerns.

Source: U.S. Department of Education, *Safeguarding Our Children: An Action Guide* 21 (2000).

APPENDIX L

CONFLICT RESOLUTION IN SCHOOLS
CONFLICT RESOLUTION EDUCATION NETWORK

WHAT IS CONFLICT RESOLUTION?

Conflict resolution refers to programs that allow students to resolve disputes peacefully outside the school's traditional disciplinary procedures. Schools that maintain conflict resolution programs teach, model, and incorporate the processes and problem-solving skills of mediation, negotiation, and collaboration. A fundamental concept of conflict resolution is that the disputing parties solve the problem themselves. Peer mediation, the most common type of conflict resolution program, uses students as neutral third parties in resolving disputes.

HOW DOES IT WORK?

To work effectively, conflict resolution requires specific skills and steps. Students must learn how to listen, empathize, reason analytically, think creatively, and understand another person's point of view. In addition, conflict resolution comprises several steps in which the parties to the dispute

- Agree to meet and set ground rules.
- Gather information about the conflict.
- Identify what the dispute is really about.
- Suggest possible options for resolution of the dispute.
- Select one or more workable options.
- Reach agreement.

WHAT ARE THE BENEFITS?

Conflict resolution programs can

- Support violence prevention policies by teaching skills and processes for solving problems before they escalate to violence.
- Help students develop personal behavioral management skills, act responsibly in the school community, and accept the consequences of their own behavior.
- Help students develop the fundamental competencies (including self-control, self-respect, empathy, and teamwork) necessary to make a successful transition to adulthood.
- Teach cognitive and other skills necessary for high academic achievement.
- Teach students to respect others as individuals and as group members.
- Teach students how to build and maintain responsible and productive intergroup relations.

WHERE CAN I FIND MORE INFORMATION?

The Conflict Resolution Education Network (CREnet), part of the National Institute for Dispute Resolution, is the primary national and international clearinghouse for information, resources, and technical assistance related to conflict resolution and training.

For more information, call CREnet at 202-667-9700 or visit the Web site at http://www.crenet.org.

In addition, the U.S. Department of Education's Safe and Drug-Free Schools Program (http://www.ed.gov/offices/OESE/SDFS) and the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention (http://ojjdp.ncjrs.org) also provide information on conflict resolution.

This information is adapted from Conflict Resolution Education Facts (online document on the Conflict Resolution Education Network Web at http://www.crenet.org/cren/facts.html).

Source: *School Safety: A Collaborative Effort*, ERIC REVIEW, Vol. 7, No. 1, at 27 (Spring 2000).

APPENDIX M

TELEVISION VIOLENCE: CONTENT, CONTEXT, AND CONSEQUENCES

Amy Aidman
National Parent Information Network Illinois
Champaign, Illinois

Social science research conducted during the past 40 years supports the conclusion that violent television programs have negative consequences for young viewers. The research suggests that televised violence can harm children by causing them to (1) learn aggressive behaviors and attitudes, (2) develop fearful or pessimistic attitudes about the real world, and (3) become desensitized to real-world and fantasy violence.

This article reports recent findings on violent television content, highlights the recently developed television ratings system, and offers suggestions for parental guidance and mediation of children's viewing of television programs.

HOW IS TELEVISION VIOLENCE DEFINED?

The 1994 National Television Violence Study (NTVS), the largest study of media content ever undertaken, defines television violence as "any overt depiction of a credible threat of physical force or the actual use of such force intended to physically harm an animate being or group of beings. Violence also includes certain depictions of physically harmful consequences against an animate being or group that occur as a result of unseen violent means" (Center for Communication and Social Policy, 1998, p. 18).

The three-year NTVS, funded by the National Cable Television Association, assessed the amount, nature, and context of violence in entertainment programming; examined the effectiveness of ratings and advisories; and reviewed televised antiviolence educational initiatives.

THE IMPACT OF TELEVISED VIOLENCE

"There can no longer be any doubt that heavy exposure to televised violence is one of the causes of aggressive behavior, crime, and violence in society. The evidence comes from both the laboratory and real-life studies. Television violence affects youngsters of all ages, of both genders, at all socioeconomic levels and all levels of intelligence. The effect is not limited to children who are already disposed to being aggressive and is not restricted to this country."

—Taken from Eron, L. D. "The Impact of Televised Violence." Testimony on behalf of the American Psychological Association before the Senate Committee on Governmental Affairs. *Congressional Record*, June 18, 1992 (p. 1).

IS ALL TELEVISION VIOLENCE THE SAME?

All television violence is not the same. Certain of violence are considered high risk for children and should be evaluated by parents when judging the possible program effects. Portrayals in which the perpetrator is attractive are especially high risk because viewers may identify with the character. Other high-risk portrayals include those in which violence is glamorized, sanitized, justified, graphic, realistic, or routine.

Although some violent content can convey an antiviolence message, U.S. television typically sanitizes, glamorizes, or even glorifies

violence. NTVS results show that from 1994 to 1997, an average of less than five percent of programs analyzed (232 of nearly 5,000 programs) had a strong antiviolence theme (Center for Communication and Social Policy, 1998). Final NTVS results also show, onaverage, that approximately 60 percent of programs analyzed contained some violence.

In addition, NTVS findings indicate that high-risk portrayals of violence abound in U.S. broadcast and cable television. On average across the three years of the study, approximately 39 percent of all violent acts were committed by attractive characters; for 73 percent of violent acts, the perpetrators were not penalized and showed no remorse; and 55 percent of violent incidents did not show the suffering of the victim. In approximately 40 percent of the violent programs, the "bad guys" were not punished.

CAN THE EFFECTS OF TELEVISION VIOLENCE BE PREDICTED?

Based on reviews of social science research, it is possible to predict some of the effects that specific portrayals of television violence can have on children.

Aggressive Behavior

Learning aggressive behaviors and attitudes is predicted to increase when the violence is justified, graphic, extensive, or realistic; when the perpetrator of violence is attractive; when conventional weapons are present; or when the violence is rewarded or presented in a humorous fashion. Conversely, the learning of aggression is inhibited by portrayals in which the violence is unjustified, the perpetrators are punished, or the painful results of violence are shown.

Fearful Attitudes

Learning fearful attitudes about the real world is predicted to increase when the violence is unjustified, graphic, extensive, or realistic; when the victims of violence are attractive; or when the perpetrators of violence are rewarded. Some research suggests that heavy viewers of violent content believe their world is meaner, scarier, and more dangerous than do their lighter-viewing counterparts (Gerbner and Gross, 1980). When violence is punished on television, the expected effect is a decrease in fearful attitudes about the real world.

Desensitization

In this context, desensitization refers to the development of a tolerance to violence. It is predicted to occur when children are repeatedly exposed to extensive, graphic, or humorous portrayals of violence, and it is therefore a potential long-term effect for heavy viewers of violent content. Given that some of the most violent programs are children's animated series in which violence is routinely intended to be funny and in which realistic consequences of violence are not shown, desensitization and its long-term effects are of special concern with respect to children.

Do All Children React to Television Violence in the Same Way?

Just as television violence varies, children vary in their reactions to television violence. Characteristics such as age, experience, cognitive development, and temperament should be considered individual factors that can affect how children react to violent content. Very young children, for example, have an understanding of fantasy and reality that is different from that of older children and adults. They may be more frightened by fantasy violence because they do not fully understand that it is not real. Therefore, when parents consider their children's viewing, both age and individual differences should be taken into account.

Using Television Ratings As Guidelines

As a result of the Telecommunications Act of 1996, a ratings system has been developed by the television industry in collaboration with

child advocacy organizations. It is currently in use by some of the networks. Ratings can also be used in conjunction with the V-chip, a device that can be programmed to block selected programming electronically.

Ratings categories are based on a combination of age-related and content factors. These ratings may help parents determine what is appropriate for their children to watch. However, ratings may make programs appear more attractive to some children, possibly creating a "forbidden fruit" appeal. Furthermore, critics point out the potentially problematic nature of having the television industry rate its own programs. These critics support the development of alternative rating systems by nonindustry groups.

BEYOND RATINGS: WHAT CAN PARENTS DO?

As a parent, you can reduce television's negative effects on your child by using the following guidelines:

- Watch television with your child. Not only does this provide you with information about what he or she is seeing, but active discussion and explanation of television programs can increase your child's comprehension of content, reduce stereotypical thinking, and increase prosocial behavior.
- Turn off disturbing programs. If a portrayal is upsetting, simply turn off the television and discuss your reason for doing so with your child.
- Limit your child's television viewing. Set an amount of time for daily or weekly viewing (suggested maximum is two hours per day), and select programs that are age appropriate.
- Use television program guides or a VCR. Television program guides can help you plan and discuss viewing with your child. A VCR is useful for screening programs, building a video library for children, pausing to discuss points, and fast-forwarding through commercials.
- Encourage your child to be critical of messages he or she encounters when watching television. Talking about television violence gives children alternative ways to think about it. Point out differences between fantasy and reality depictions of violence, and help your child understand that, in real life, violence is not funny. Discussion of issues underlying what is on the screen can help children become critical viewers.

SOURCE

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RESOURCES

Center for Media Education (http://www.cme.org)

Center for Media Literacy (http://www.medialit.org/index.html)

NOTES

This article is adapted from the ERIC Digest Television Violence: Content, Context, and Consequences, by Amy Aidman.

Amy Aidman is Project Manager for the National Parent Information Network Illinois (NPIN Illinois) and Research Associate for the ERIC Clearinghouse on Elementary and Early Childhood Education in Champaign, Illinois.

Source: *School Safety: A Collaborative Effort*, ERIC REVIEW, Vol. 7, No. 1, at 8-11 (Spring 2000).

TELEVISION GUIDELINES FOR PARENTS

Audience Labels

TV-Y: Directed at Younger Children (ages 2-6)
This program is designed for a very young audience, including children from ages 2-6. Note: Not all TV-Y shows are violence free. There is no content rating to let parents know whether a TV-Y show contains violence.

TV-Y7: Directed at Older Children (ages 7 and older)
This program may be more appropriate for children who can distinguish between make-believe and reality. Themes and elements in this program may include mild fantasy or comedic violence or may frighten children under the age of 7. Note: Programs in which fantasy violence (FV) may be more intense or more combative than in other programs in this category are designated TV-Y7-FV.

TV-G: General Audience
Although not designed specifically for children, this program contains little or no violence, no strong language, and little or no sexual dialogue or situations.

TV-PG: Parental Guidance Suggested (may be unsuitable for young children)
This program contains one or more of the following: moderate violence (V), some sexual situations (S), some coarse language (L), or some suggestive dialogue (D).

TV-14: Parents Strongly Cautioned (children ages 14 and older)
This program contains one or more of the following: intense violence (V), intense sexual situations (S), strong coarse language (L), or intensely suggestive dialogue (D).

TV-MA: Mature Audience Only (ages 17 and older)
This program contains one or more of the following: graphic violence (V), explicit sexual activity (S), or crude indecent language (L).

Content Labels

Television guidelines may have one or more of the following letters added to the basic rating to let parents know when a show contains higher levels of violence, sex, adult language, or suggestive dialogue:

V Violence
S Sexual situations
L Coarse or crude indecent language
D Suggestive dialogue (usually means talk about sex)
FV Fantasy violence

—Adapted from Eisenstock, B., and K. Borum. 1999. *A Parent's Guide to the TV Ratings and V-Chip.* Washington, DC: Center for Media Education; Menlo Park, CA: Kaiser Family Foundation. (Available online at http://www.vchipeducation.org)

APPENDIX N

THE EFFECTS OF VIOLENCE ON YOUNG CHILDREN

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Texas Technical University

What causes school violence? Does violent television programming make children more aggressive? Is bullying really a big deal? What makes girls turn to violence? In answering these and other questions, this section of "The ERIC Review" highlights the concept that to prevent school violence, one must understand it. The first four articles trace the origins of school violence to the environments in which children are raised, discuss the harmful effects of violence on developmental and educational outcomes, and suggest ways that parents and educators can create environments in which children learn to solve problems nonviolently. Because early intervention is not always successful, the final article describes the warning signs that typically precede a violent school incident.

Violence is now perceived as a public health issue, and there is much evidence to illuminate its harmful effects. Every day, 10 American children are murdered, 16 die from gunshot wounds, 316 are arrested for crimes of violence, and 8,042 are reported to be abused or neglected (Children's Defense Fund, 1997). In 1997, more than 3 million children were reported as victims of child abuse and neglect to child protective agencies in the United States, and an estimated 1,196 children died as a result of child abuse and neglect (U.S. Department of Health and Human Services, 1999). Of these children, approximately 77 percent were three years old or younger at the time of their death.

This article describes the effects of violence on young children and suggests ways that caregivers, parents, and teachers can reduce the damaging effects of violence.

THE EARLY YEARS

Even before a child is born, violence can have a profound effect on his or her life. Studies show that battered pregnant women often deliver low-birth-weight babies who are at great risk for exhibiting developmental problems (Prothrow-Stith and Quaday, 1995). The shaking of an infant or child by the arms, legs, or shoulders can be devastating and result in shaken baby syndrome, which can include irreversible brain damage, blindness, cerebral palsy, hearing loss, spinal cord injury, seizures, learning disabilities, and even death (Poussaint and Linn, 1997). The growing body of knowledge regarding early brain development suggests that "the ways parents, families, and other caregivers relate and respond to their young children, and the ways that they mediate their children's contact with the environment, directly affect the formation of neural pathways" (Shore, 1997, p. 4).

PSYCHOLOGICAL EFFECTS

Violent children usually come from violent homes, where parents model violent behavior as a means of resolving conflict and handling stress (Page and others, 1992). Even if children are not physically abused themselves, they can suffer psychological trauma—including the inability to bond with caregivers—from witnessing battering. Attachment or bonding has far-reaching implications not only for the child's emotional well-being but also for his or her cognitive development, ability to cope effectively with stress, and ability to develop healthy relationships (Lerner, 1992). Children who witness violence can display an

array of emotional and behavioral disturbances, including low self-esteem, withdrawal, nightmares, self-blame, and aggression against peers, family members, and property (Peled, Jaffe, and Edleson, 1995).

VIOLENCE AND LEARNING

Research shows that chronic exposure to violence adversely affects a child's ability to learn (Shore, 1997; Prothrow-Stith and Quaday, 1995; Kurtz, Gaudin, and Wodarski, 1994; Lorion and Saltzman, 1993). Learning itself is an essential tool for violence prevention (Prothrow-Stith and Quaday, 1995). Children who achieve in school and develop important reading, critical-thinking, problem-solving, and communication skills are better able to cope with stressful and perhaps dangerous situations.

In addition, academic achievement enhances the development of positive self-esteem and self-efficacy, both of which are necessary for experiencing emotional well-being and achieving success. The relationship between violence and learning is particularly significant because cognitive skills are crucial in terms of academic success, self-esteem, coping skills, and overall resilience. Interventions must begin early to help children develop higher-order thinking skills, empathy, impulse control, anger management, peaceful conflict resolution skills, and assertive communication techniques.

WHAT CAN PARENTS DO TO PREVENT VIOLENCE?

Children learn from what they see. To prevent violence, parents need to model appropriate ways to manage problems, conflict, anger, and stress. Parents and other caregivers can help children learn to deal with emotions without using violence, and they can practice specific strategies to prevent violent behavior.

The American Academy of Pediatrics and the American Psychological Association (1995) provide the following suggestions to help parents and other caregivers reduce violence:

- Give children consistent love and attention. Every child needs a strong, loving relationship with a caring adult to feel safe and secure and to develop a sense of trust.
- Ensure that children are supervised and guided. Children learn important social skills by interacting with others in well-supervised activities. Unsupervised children often have behavioral problems that can lead to violence.
- Model appropriate behaviors. Children learn by example. Discuss problems with them and help them learn to resolve conflicts nonviolently.
- Do not hit children. Physical punishment sends the message that it is acceptable to hit others to solve problems. Nonphysical methods of discipline help children deal with their emotions and teach them peaceful ways to handle problems and conflicts.
- Be consistent with rules and discipline. Children need structure to learn appropriate behaviors. State clear, logical consequences for not following the rules.
- Make sure children do not have access to firearms, even if unloaded. Teach children about the dangers of firearms and the steps to take if they find a gun.
- Try to keep children from seeing too much violence in the media. Limit television viewing time, and talk with children about the violence they see in movies, on TV, and in video games. Help them understand how painful violence is in real life, and discuss its serious consequences.
- Teach children ways to avoid being victims of violent acts. Stress personal safety to children, including what to do if anyone tries to hurt them and how to call 911.

- Take steps to keep the community safe. Stay involved with family, friends, and neighbors, and take pride in the community.

WHAT CAN EDUCATORS DO TO PREVENT VIOLENCE?

Teachers and directors of preschools and child-care centers have an opportunity to specifically address violence prevention in early childhood. There are numerous violence prevention methods that can make a difference in the lives of parents and young children. The following are some workable ideas:

- Offer parenting classes that address effective parenting methods and child development.
- Conduct training for parents, expectant parents, and people who work directly with young children. Discuss life skills, including specific violence prevention skills (for example, empathy, gentle touch, anger management, impulse control, conflict resolution, and setting and enforcing limits); stress management and positive coping techniques; problem-solving skills; and communication methods.
- Provide educational opportunities to prevent shaken baby syndrome. Show parents and caregivers how to recognize their emotional "triggers" (when they feel they are about to lose control), and teach them anger management and coping techniques for self-control.
- Send home tip sheets or include tips in family newsletters that deal with topics related to violence prevention. A list of parenting resources and hotline numbers also can be included.
- Teach children at an early age that feelings are normal, even feelings of anger or hurt. Stress that violence, however, is not an acceptable method for expressing anger, frustration, and other negative feelings.
- Be a vigilant, positive role model.

CONCLUSION

Behavior is shaped by conditions in the environment. The way children are treated within their primary environments largely determines how they behave. As a result, all Americans are stakeholders in the quest to prevent violence in the critical early years. All children deserve the opportunity to "fly" and reach their highest potential—they must not become "hidden casualties."

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Source: *School Safety: A Collaborative Effort,* ERIC REVIEW, Vol. 7, No. 1, at 6-8 (Spring 2000).

SOURCE

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This article is adapted from the ERIC Digest Early Childhood Violence Prevention, by Marilyn S. Massey.

APPENDIX O

BULLYING IN SCHOOLS

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Bullying in schools is a worldwide problem that can have negative consequences for the general school climate and for the right of students to learn in a safe environment without fear. Bullying can also have negative lifelong consequences—for both bullies and their victims. Although much of the formal research on bullying has taken place in Scandinavia, Great Britain, and Japan, the problems associated with bullying have been noted and discussed wherever formal schooling environments exist.

WHAT IS BULLYING?

Bullying comprises teasing, taunting, threatening, hitting, stealing, and other direct attacks that are initiated by one or more students against a victim. In addition to direct attacks, bullying can be indirect—for example, by causing a student to be socially isolated through intentional exclusion. Although boys typically engage in direct bullying methods, girls who bully are apt to use more indirect, or subtle, strategies, such as spreading rumors and enforcing social isolation (Ahmad and Smith, 1994; Smith and Sharp, 1994). Whether bullying is direct or indirect, its key component is physical or psychological intimidation that occurs repeatedly over time to create an ongoing pattern of harassment and abuse (Batsche and Knoff, 1994; Olweus, 1993).

EXTENT OF THE PROBLEM

Various reports and studies have established that approximately 15 percent of K-12 students are regularly either victims or initiators of bullying behavior (Olweus, 1993). The latest information[1] indicates that during the 1992-93 school year, 12 percent of students in grades 6-12 were bullied[2] (U.S. Department of Education and U.S. Department of Justice, 1999). Direct bullying seems to increase through the elementary school years, peak in the middle school/junior high school years, and decline during the high school years. However, although direct physical assault seems to decrease with age, verbal abuse appears to remain constant. School size, racial composition, and school setting (rural, suburban, or urban) do not seem to be distinguishing factors in predicting the occurrence of bullying. Finally, boys engage in bullying behavior and are victims of bullies more frequently than girls (Batsche and Knoff, 1994; Nolin, Davies, and Chandler, 1995; Olweus, 1993; Whitney and Smith, 1993).

CHARACTERISTICS OF BULLIES AND VICTIMS

Bullies seem to have a need to feel powerful and in control. They appear to derive satisfaction from inflicting injury and suffering on others, seem to have little empathy for their victims, and often defend their actions by saying that their victims provoked them in some way. Studies indicate that bullies often come from homes where physical punishment is used, where children are taught to strike back physically as a way to handle problems, and where parental involvement and warmth are frequently lacking. Children who regularly display bullying behaviors are generally defiant or oppositional toward adults, antisocial, and apt to break school rules. In contrast to prevailing myths, bullies seemingly have little anxiety and possess strong self-esteem. There

1. Note: Data from the 1999 National Household Education Survey were not available at the time of publication.
2. Includes physical attack and robbery.

is little evidence to support the contention that bullies victimize others because they feel bad about themselves (Batsche and Knoff, 1994; Olweus, 1993).

Victims of bullies are typically anxious, insecure, and cautious and suffer from low self-esteem, rarely defending themselves or retaliating when confronted by students who bully them. They may lack social skills and friends, and they are often socially isolated. Victims tend to be close to their parents and may have parents who can be described as overprotective. The major defining physical characteristic of victims is that they tend to be or appear to be physically weaker than their peers. Other physical characteristics, such as weight, dress, or poor eyesight (necessitating eyeglasses), do not appear to be significant factors that can be correlated with victimization (Batsche and Knoff, 1994; Olweus, 1993).

CONSEQUENCES OF BULLYING

As established by studies conducted in Scandinavian countries, a strong correlation appears to exist between engaging in bullying as a child and experiencing legal or criminal troubles as an adult. In one study, 60 percent of those characterized as bullies in grades 6-9 had at least one criminal conviction by age 24 (Olweus, 1993). Chronic bullies seem to maintain their behaviors into adulthood, which diminishes their ability to develop and maintain positive relationships (Oliver, Hoover, and Hazler, 1994).

Victims often fear school and consider it to be an unsafe and unhappy place. As many as seven percent of America's eighth graders stay home at least once a month because of bullies. Victimization tends to increase some students' isolation because their peers do not want to lose status by associating with them or do not want to increase the risk of being bullied themselves. Being bullied leads to depression and low self-esteem, problems that can extend into adulthood (Olweus, 1993; Batsche and Knoff, 1994).

PERCEPTIONS OF BULLYING

A number of studies reveal interesting information regarding how students perceive the causes and outcomes of bullying and how they react to bullying around them. For example, a survey conducted in the Midwest found that a clear majority of students believe that victims are at least partially responsible for bringing the bullying on themselves (Oliver, Hoover, and Hazler, 1994). Students surveyed tended to agree that bullying toughens a weak person, and some felt that bullying "teaches" victims appropriate behavior. Another study found that students consider victims to be "weak," "nerds," and "afraid to fight back" (Charach, Pepler, and Ziegler, 1995). However, 43 percent of the students in this study said that they try to help the victim, 33 percent said that they should help but do not, and only 24 percent said that bullying is none of their business.

Parents are often unaware of the bullying problem and talk about it with their children only to a limited extent (Olweus, 1993). Student surveys reveal that only a small percentage of students seem to believe that adults will help. Students feel that adult intervention is infrequent and ineffective and that telling adults will only bring more harassment from bullies. Students report that teachers seldom or never talk to their classes about bullying (Charach, Pepler, and Ziegler, 1995). School personnel may view bullying as a harmless rite of passage that is best ignored unless verbal and psychological intimidation cross the line into physical assault or theft.

INTERVENTION PROGRAMS

Bullying is a problem that occurs in the social environment as a whole. The bully's aggression occurs in social contexts in which teachers and parents are generally unaware of the extent of the problem and in which other children are either reluctant to get involved or simply do not know how to help (Charach, Pepler, and Ziegler, 1995).

Given this situation, effective antibullying interventions must involve the entire school community rather than focus on the perpetrators and victims alone. For example, some researchers emphasize the need to develop schoolwide bullying policies, implement curricular measures, improve the school grounds, and train students in conflict resolution, peer counseling, and assertiveness techniques (Smith and Sharp, 1994). To read about a highly successful intervention approach, see the box on this page.

CONCLUSION

Bullying is a serious problem that can dramatically affect the ability of students to progress academically and socially. A comprehensive intervention plan that involves all students, parents, faculty, and staff is required to ensure that all students can learn in a safe and fear-free environment.

NO BULLYING ALLOWED

- Olweus (1993) details an antibullying program that involves interventions at the school, class, and individual levels. Schools that have implemented this program have reported a 50-percent reduction in bullying. It includes the following components:
- An initial schoolwide questionnaire that is distributed to students and adults. The questionnaire helps justify intervention efforts, helps students and adults become aware of the extent of the problem, and serves as a benchmark to measure the impact of improvements in school climate once other intervention components are in place.
- A schoolwide parental awareness campaign that can be conducted during parent-teacher conference days, through parent newsletters, and at PTA meetings. The goal is to increase parental awareness of the problem, point out the importance of parental involvement for program success, and encourage parental support of program goals. An important part of the campaign involves making parents aware of the results of the initial schoolwide questionnaire.
- A classroom program that includes a list of rules against bullying that teachers and students develop together. Many programs engage students in a series of formal role-playing exercises and related assignments that can teach alternative methods of interaction to students directly involved in bullying. These programs can also show other students how they can assist victims and how everyone can work together to create a school climate where bullying is not tolerated (Sjostrom and Stein, 1996).
- Individual interventions for bullies and victims.

This article is adapted from the ERIC Digest Bullying in Schools, by Ron Banks.

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Source: *School Safety: A Collaborative Effort*, ERIC REVIEW, Vol. 7, No. 1, at 12-14 (Spring 2000).

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NSBA Council of School Attorneys
Publications List
September 2000

Americans with Disabilities Act: Its Impact on Public Schools (March 1993) by Nancy Fredman Krent, Scott S. Cairns, and Jean Arnold Dodge. This publication analyzes the key titles applicable to public schools of the American with Disabilities Act. Included are discussions of the law's anti-discrimination requirements in the areas of employment and state and local government services. The appendices reproduce relevant portions of the statute, implementing regulations and agency interpretive guidance. 120 pp. ISBN 0-88364-146-1 (List $25, National Affiliates and Council members $20).

Child Abuse: Legal Issues for Schools (March 1994). This monograph addresses the legal issues schools face in responding to child abuse, including employee background checks, reporting requirements, appropriate training, interagency cooperation, investigation of school-based abuse, due process, insurance coverage, victim assistance and liability. The appendices contain applicable state and federal laws and numerous sample policies and forms. 198 pp. ISBN 0-88364-184-4 (List $25, National Affiliates and Council members $20).

Desk Reference on Significant U.S. Supreme Court Decisions Affecting Public Schools (*Revised Edition* 2000) This desk reference provides attorneys and laymen alike with quick access to the name, citation and/or rule of virtually every U.S. Supreme Court case in which a public school district was a party and a substantive decision was rendered (however, it does not analysis the decision). It includes an extensive word index, table of cases with full parallel citations and table of constitutional and statutory provisions. 118 pages. ISBN 0-88364-227-1 (List $25, National Affiliates and Council members $20).

Environmental Law: Fundamentals for Schools (March 1995) by David Day. This monograph provides school attorneys and administrators with information on the basic requirements and potential issues under some of the federal environmental laws that affect schools. Such topics as Superfund, RCRA, asbestos, radon, lead, USTs and toxic torts are discussed with practical pointers provided to prevent and respond to environmental crises in school. Intended as a primer, this publication serves as an overview of the key environmental issues of which schools must be aware. 36 pp. ISBN 0-88364-194-1 (List $15, National Affiliates and Council members $12).

Legal Handbook on School Athletics (March 1997) This monograph provides school attorneys, board members, administrators and athletic directors with an understanding of the various legal issues that affect school athletic programs. Discussion of the law is supplemented with practical advice. Topics include: discipline of athletes: due process considerations, eligibility rules protecting high school athletes, participation of private school and disabled students, drug testing, Title IX, public school sports and religion, injuries during physical education classes and extracurricular activities, spectator issues, student athletics and insurance issues, athletic personnel and volunteer issues. 120 pages. ISBN 0-88364-206-9 (List $35, National Affiliates and Council Members $28).

Legal Guidelines for Curbing School Violence (March 1995). Addressing one of the most urgent problems in schools today, this publication covers such issues as search and seizure, metal detectors, students' due process rights, discipline of students with disabilities, tort and constitutional liability, hate speech, dress codes and gangs, keeping weapons out of schools and working with the criminal justice system. This comprehensive legal guide includes numerous sample policies. 162 pages. ISBN 0-88364-195-X (List $30, National Affiliates and Council Members $25).

Legal Issues & Education Technology: A School Leader's Guide (April 1999) School districts that use new technologies without establishing strong usage policies can incur legal liability and jeopardize the safety and privacy of students, faculty and staff. This publication, written in plain language by NSBA Council of School Attorneys members expert in the field of school law, helps you tackle the challenge of striking a healthy balance between protection and open communications. Topics include Internet filtering; acceptable use policies for Internet access; copyright and fair use; privacy rights, and freedom of expression; as well as peripheral questions on topics such as open meeting "sunshine" laws for school boards; attorney/client privilege; sexual harassment; and Americans with Disabilities Act compliance. Appendices lead to Web sites for updated guidance and policy samples. 96 pages. ISBN 0-88364-222-0 (*List $35, Technology Leadership Network members and National Affiliate members $28). Order #03-145-10

Reasonable Accommodation of Disabled Employees: A Comprehensive Case Law Reference (February 1996) written by Brian Shaw. This reference book provides brief summaries of over 200 cases deciding reasonable accommodation issues under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973. The summaries are arranged topically addressing: 1) general issues such as standards, knowledge of disability, suggesting an accommodation, burden of proof, and good faith defense; 2) over 20 different types of accommodations; and 3) undue hardship issues. A detailed table of contents and table of cases provide easy access to school attorneys looking for case law to help answer their clients' accommodation questions. 95 pages. ISBN 0-88364-200-X (List $15, National Affiliates/Council of School Attorneys price $12).

Religion, Education and the U.S. Constitution (March 1994) edited by Naomi Gittins. This edition includes the latest developments in the law, including the Supreme Court's decisions in Zobrest, Lamb's Chapel and Lukumi. This monograph is a compilation of articles written by Council members and focuses on the effect of the establishment and free exercise clauses of the first amendment and the constitutional issues surrounding accommodating employee religious beliefs, wearing of religious garb, curriculum content, school prayer/moment of silence, holiday observances, equal access, home school and much more. 198 pp. ISBN 0-88364-183-6 (List $25, National Affiliates and Council members $20).

Safe Schools, Safe Communities (Available in the Fall 2000). Emphasizing the need for cooperation to prevent and respond to violence at school, this book examines how schools and communities can work together to make our schools safe. Among the topics discussed are the need to balance school safety needs and the rights of individual students, how to deal with threats of violence, the role of the school attorney in response to violence, and how to work with the media in times of crisis. Also included are other helpful materials such as sample interagency agreements, a list of other resources on school safety, warning signs that should trigger school response and sample policies. ISBN 0-88364-238-7 (List $25, National Affiliates and Council Members $20).

School Board Member Liability Under Section 1983 (April 1992) by David B. Rubin, Piscataway, NJ (editor, Naomi E. Gittins, NSBA staff attorney). Like earlier editions published in 1981 and 1985, this monograph serves as a primer for both school board members and school attorneys on board member liability issues. The current version seeks to explain clearly and accurately in layman's terms the basics of civil rights law under Section 1983. It focuses on the types of claims most commonly brought under Section 1983 against school boards and presents factual circumstances and how the courts have applied the law in immunity defenses. 44 pp. ISBN 0-88364-134-8 (List $15, National Affiliates and Council members $12).

A School Law Primer: Part I (April 1999) Created to meet the needs of the attorneys who serve public school districts and those of the school community at large, *A School Law Primer: Part I* is intended as a training manual to help you keep your clients out of court. Specifically, the *Primer* was designed to save you hundreds of hours in research time, help when you have been called upon to do a presentation, and be a valuable resource for training new associates and clients. Each chapter consists of three main components - a presentation outline and case summaries; participant "notes pages;" and a diskette containing Microsoft PowerPoint® slides that correspond to the outline. The *Primer* features these subjects: Student Discipline; Students' Constitutional Rights; Special Education; and Teacher Discipline. ISBN 0-88364-224-7 (List $400.00, National Affiliates and Council Members $320.00 or purchase A School law Primer Part I and Part II for $512. Non-member price $640.)

A School Law Primer: Part II (March 2000) Update your law library with the second part of this training tool. Created to meet the needs of the attorneys who serve public school districts and those of the school community at large. Intended as a resource to help you keep your clients out of court, this school law training manual covers such topics as: employee rights, negligence, school safety and sexual harassment. Each chapter consists of three main components — a presentation outline and case summaries; participant "notes pages;" and a diskette containing Microsoft Powerpoint® slides that correspond to the outline. This publication will save you hundreds of hours in research time, help when you have been called upon to do a presentation -- and need to have the material right at your fingertips, and be a valuable resource for training new associates and clients. ISBN 0-88364-234-4 (List $400, NSBA Council of School Attorneys' members and NSBA National Affiliate School Districts $320 or purchase A School law Primer Part I and Part II for $512. Non-member price $640.)

A School Law Retreat (October 1999) This loose-leaf trial notebook is a compilation of the presentations given at the Council's October 1999 advocacy seminar in Charleston, SC. Topics include school tuition vouchers, student drug testing, employee benefits, superintendent contracts and settlement agreements, peer sexual harassment, the Internet and use of e-mail, board member issues, linking teacher evaluation to student achievement, sexual orientation: student and employee issues, religion and the schools, voluntary desegregation, student-to-student sexual harassment claims under Title IX, student control and discipline, responding to threats of violence, the ethical use of technology in the practice of school law, and Individuals with Disabilities Education Act (IDEA). 402 pages. ISBN 0-88364-288-X (List $200, National Affiliates and Council members $160).

School Law in Review 2000 (March 2000) This digest of papers presented at the 2000 Annual School Law Seminar includes the following topics: balancing student safety and students' civil rights; update on sexual harassment in schools; doing business with business – product endorsements/vendor contracts: the role of the school board attorney; selecting and hiring a superintendent: the school attorney's role; Internet use by students, employees and school boards: critical legal issues; voluntary desegregation under fire; hate speech and the public schools; ethical considerations in attorney-led investigations; Supreme Court update; anticipate pitfalls: understanding the interaction between the IDEA, Section 504 and the ADA; containing the costs of providing special education services to parentally placed private school students; discrimination claims and arbitration and recent developments in public sector labor law. 190 pages. ISBN 0-88364-233-6 (List $35, Council members - first copy free. National Affiliates and additional Council copies $28).

School Reform: The Legal Challenges of Change (April 1996). This monograph is intended to assist school attorneys in their efforts to advise school boards on the legal issues that accompany various reform measures. Covering such topics as school finance, choice, site-based management, privatization, alternative schools, charter schools and tenure reform, the discussion ranges from constitutional dilemmas to statutory issues to labor relations implications. Review of the law is supplemented with practical advice. 150 pp. ISBN 0-88364-202-6 (List $30, National Affiliates and Council members $25).

Selecting and Working With a School Attorney: A Guide for School Boards (April 1997) In today's world, getting good legal advice when problems arise and on how to avoid problems in the first place is a must for school boards. This book shows school board members how to select and to work effectively with a school attorney. Topics include: historical development of the role of the school attorney, hiring in-house counsel v. an outside attorney, selection, recruitment and retention of legal counsel, ethical issues in school board representation, evaluation and termination of school district counsel, the school attorney as a preventive law practitioner, how to work effectively with the school attorney. Also included in the appendices are sample policies, forms, agreements and checklists. 142 pages. ISBN 0-88364-209-3 (List $35, National Affiliates and Council Members $28).

Sexual Harassment by School Employees (Available Fall 2000). School leaders and school lawyers faced with the task of preventing and responding to sexual harassment by employees will find the information they need in this monograph. Covering harassment that occurs between employees and employee harassment of students, it discusses current federal case law, effective policy development, how to conduct internal investigations, training advice and resources and agency (OCR and EEOC) investigations. The appendices contain many useful documents including regulations, agency guidance, sample policies and checklists. ISBN 0-88364-237-9 (List $30, National Affiliates and Council Members $24).

Student-to-Student Sexual Harassment: A Legal Guide for Schools (Revised Edition March 2000) Addressing a complex legal and social issue, this monograph provides the school law practitioner and school leaders with information on how to prevent, respond to, analyze and defend student to student harassment claims. In addition to discussing federal case law, it includes a section on policy development, advice on conducting investigation; tips for training, and analysis of the Office of Civil Rights Guidelines and appendices containing OCR documents, sample policies and forms and helpful check lists. 192 pages? ISBN 0-88364-235-2 (List $35, National Affiliates and Council Members $28).

Student Testing and Assessment: Answering the Legal Questions (Available Fall 2000). Addresses one of the most controversial developments in education reform today. This book takes a look at the legal issues with which education leaders and decision makers are faced in setting policy on and implementing high-stakes testing programs. Among the materials included are, an overview of state testing laws and federal activity; a framework for making policy decisions about test use; discrimination and due process issues that may arise; considerations for testing special student groups, such as children with disabilities and limited english proficiency; and accountability of educators, schools and districts based on student test scores. ISBN 0-88364-239-5 (List $25, National Affiliates and Council Members $20).

Termination of School Employees: Legal Issues and Techniques (April 1997) Disputes over employee termination are the most common legal problem faced by schools. In order to assist school attorneys and officials in handling these disputes, this monograph addresses the legal issues and suggests effective techniques associated with proper termination of school employees. Topics include: employee performance documentation, evaluation, remediation, settlement agreements, public employee speech and off duty conduct, termination of drug/alcohol abusers, legal issues in trying a misconduct case, due process, and employment at will. 316 pages. ISBN 0-88364-210-7 (List $35, National Affiliates and Council Members $28).

The 1999 IDEA Regulations: A Practical Analysis (July 1999) School districts had to comply with the new rules by October 1, 1999. . . It is imperative that schools understand the special rules and requirements that they must follow in addressing the needs of students served under the Individuals with Disabilities Education Act (IDEA). The NSBA Council of School Attorneys presents *The 1999 IDEA Regulations: A Practical Analysis* as a guide for all school professionals involved in special education to grasp the basic requirements and implications of the regulations issued by the U.S. Department of Education. Using an easy to follow format that tracks the regulations rule-by-rule, special education experts explain to you what you need to know and what you must do to comply with the provisions on a broad range of issues including: public charter schools, graduation of special needs students, assessments, use of Medicaid and insurance, IEP requirements, services to children in private schools, procedural safeguards, and discipline of children with disabilities. 96 pages. ISBN 0-88364-225-5 (List $25, National Affiliates and Council Members $20).

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about NSBA...

The National School Boards Association is the nationwide organization representing public school governance. NSBA's mission is to foster excellence and equity in public elementary and secondary education through school board leadership. NSBA achieves its mission by representing the school board perspective before federal government agencies and with national organizations that affect education, and by providing vital information and services to state associations of school boards and local school boards throughout the nation.

NSBA advocates local school boards as the ultimate expression of grassroots democracy. NSBA supports the capacity of each school board—acting on behalf of and in close concert with the people of its community—to envision the future of education in its community, to establish a structure and environment that allow all students to reach their maximum potential, to provide accountability for the people of its community on performance in the schools, and to serve as the key community advocate for children and youth and their public schools.

Founded in 1940, NSBA is a not-for-profit federation of associations of school boards across the United States and its territories. NSBA represents the nation's 95,000 school board members that govern 14,800 local school districts serving the nation's more than 47 million public school students. Virtually all school board members are elected; the rest are appointed by elected officials.

NSBA policy is determined by a 150-member Delegate Assembly of local school board members. The 25-member Board of Directors translates this policy into action. Programs and services are administered by the NSBA executive director, assisted by a 150 person staff. NSBA is located in metropolitan Washington, D.C.

NSBA's Programs and Services

- **National Affiliate Program** — enables school boards to work with their state association and NSBA to identify and influence federal and national trends and issues affecting public school governance.
- **Council of Urban Boards of Education** — serves the governance needs of urban school boards.
- **Large District Forum** — serves the governance needs of large but non-urban boards.
- **Rural and Small District Forum** — serves the governance needs of rural and small enrollment districts.
- **Federal Relations Network** — school board members from each congressional district actively participate in NSBA's federal and national advocacy efforts.
- **Federal Policy Coordinators Network** — focuses on the administration of federally funded programs.
- **Award Winning Publications** — ***American School Board Journal***, ***School Board News***, and special substantive reports on public school governance throughout the year.
- **ITTE: Education Technology Programs** and **Technology Leadership Network** — advance public education through best uses of technology in the classroom and school district operations.
- **Council of School Attorneys** — focuses on school law issues and services to school board attorneys.
- **Annual Conference and Exposition** — the nation's largest policy and training conference for local education officials on national and federal issues affecting the public schools in the United States.
- **National Education Policy Network** — provides the latest policy information nationwide and a framework for public governance through written policies.
- **Training/Development and Resource Exchange** — for the policy leadership of state school boards associations and local school boards.

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Excellence and Equity in Public Education through School Board Leadership

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